

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

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PATRICK PURSLEY,)	
)	
Plaintiff,)	NO. 3:18-cv-50040
)	
vs.)	DEPOSITION OF
)	MARVIN A. WINDHAM
CITY OF ROCKFORD, JAMES BARTON,)	
JIM BOWMAN, RON GALLARDO,)	
JOHN GENENS, CHARLENE GETTY,)	
JEFF HOUDE, CHRISTINE BISHOP,)	
SAM POBJECKY, MARK SCHMIDT,)	
BRUCE SCOTT, DOUG WILLIAMS,)	
GREG HANSON, STEPHEN PIRAGES,)	
City Administrator for the)	
City of Rockford, as Special)	
Representative for the)	
ESTATE OF HOWARD FORRESTER,)	
ESTATE OF GARY REFFETT and)	
ESTATE OF DAVID EKEDAH,)	
UNIDENTIFIED EMPLOYEES OF THE)	
ROCKFORD POLICE DEPARTMENT,)	
DANIEL GUNNELL, PETER)	
STRIUPAITIS, JACK WELTY and)	
UNIDENTIFIED EMPLOYEES OF THE)	
ILLINOIS STATE POLICE CRIME LAB,)	
)	
Defendants.)	
-----		-----

Deposition of Marvin A. Windham
taken on behalf of Jim Bowman, Ron Gallardo,
John Genens, Jeff Houde, Sam Pobjecky,
Mark Schmidt, Greg Hanson, defendants, in the
above-entitled action in the offices of
Hinshaw & Culbertson LLP, 100 Park Avenue,
Rockford, Illinois, on the 15th day of October,
2019, commencing at 10:17 a.m., as reported and
transcribed by Andrea L. D'Agnolo, Certified
Shorthand Reporter and Notary Public in and for
the State of Illinois.

A P P E A R A N C E S

ATTORNEY ROSHNA BALA KEEN, of the firm of Loevy & Loevy, 311 North Aberdeen Street, Third Floor, Chicago, Illinois 60607, appeared via teleconference on behalf of the plaintiff.

ATTORNEY ASHLEY ROSA WADDELL TINGSTAD, of the firm of Hooper Hathaway, P.C., 126 North Main Street, Ann Arbor, Michigan 48104, appeared via teleconference on behalf of the plaintiff.

ATTORNEY IFEANYI C. MOGBANA, of City of Rockford Department of Law, 425 East State Street, Rockford, Illinois 61104, appeared on behalf of City of Rockford and Charlene Getty, defendants.

ATTORNEY JAMES P. DEVINE, of the firm of WilliamsMcCarthy LLP, 120 West State Street, Fourth Floor, P.O. Box 219, Rockford, Illinois 61105-0219, appeared on behalf of James Barton, Christine Bishop, Bruce Scott, Doug Williams and Stephen Pirages, defendants.

ATTORNEY MICHAEL F. IASPARRO, of the firm of Hinshaw & Culbertson LLP, 100 Park Avenue, P.O. Box 1389, Rockford, Illinois 61105-1389, appeared on behalf of Jim Bowman, Ron Gallardo, John Genens, Jeff Houde, Sam Pobjecky, Mark Schmidt and Greg Hanson, defendants.

ATTORNEY ROBERT C. POTTINGER, of the firm of Barrick, Switzer, Long, Balsley & Van Evera, LLP, 6833 Stalter Drive, Rockford, Illinois 61108, appeared on behalf of the Estate of Howard Forrester, Estate of Gary Reffett and Estate of David Ekedahl, defendants.

ATTORNEY AMANDA L. KOZAR, of the Illinois Attorney General's Office, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601, appeared on behalf of Daniel Gunnell, Peter Striupaitis and Jack Welty, defendants.

PRESENT: Patrick Pursley, via teleconference.

1 I N D E X

2	WITNESS	EXAMINATION	PAGE
3	Marvin A. Windham	By Mr. Iasparro	10
		By Mr. Devine	35
4		By Mr. Pottinger	41
		By Mr. Mogbana	47
5		By Ms. Kozar	59
		By Mr. Iasparro	61

6

7

8

9

10 EXHIBITS

11	EXHIBIT	MARKED
12	Windham Deposition Exhibit No. 1	14

13

14

15

16

17

18

19

20	Certificate of Shorthand Reporter	65
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23

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1 P R O C E E D I N G S

2 MR. IASPARRO: Let the record reflect
3 this is the deposition of Marvin Windham taken
4 pursuant to subpoena and amended notice to all
5 parties that are present, both in the conference
6 room today here at Hinshaw and Culbertson and also
7 on the phone.

8 I guess the best thing to do is to have
9 all parties represented here today introduce
10 themselves before we go any further.

11 This is Michael Iasparro. I represent
12 seven individually-named defendants in this
13 matter. Those are Jim Bowman, Ron Gallardo,
14 John Genens, Jeff Houde, Sam Pobjecky,
15 Mark Schmidt and Greg Hanson.

16 MR. DEVINE: James Devine from
17 WilliamsMcCarthy in Rockford. I represent
18 Christine McNally Bishop, James Barton,
19 Doug Williams, Bruce Scott and Steve Pirages.

20 MR. POTTINGER: R.C. Pottinger. I
21 represent the estates of Howard Forrester,
22 David Ekedahl and Gary Reffett.

23 MS. KOZAR: Amanda Kozar. I represent
24 the Illinois State defendants.

1 MR. MOGBANA: Ifeanyi Mogbana. I
2 represent the City of Rockford and Charlene Getty.

3 MS. KEEN: Good morning, Mr. Windham
4 and Counsel. My name is Roshna Keen, and I
5 represent Patrick Pursley.

6 THE WITNESS: All right. How you
7 doing?

8 MS. TINGSTAD: Good morning. My name
9 is Ashley Waddell Tingstad, and I also represent
10 Patrick Pursley.

11 THE WITNESS: Good morning.

12 MR. IASPARRO: And my understanding is
13 Mr. Pursley is also participating by telephone; is
14 that correct?

15 MS. KEEN: That's correct.

16 MR. IASPARRO: Mr. Windham, before we
17 get started with questions today, one thing that
18 we're going to do is call the magistrate judge,
19 because we had a conference call with him
20 yesterday with respect to your deposition, and
21 there is at least one matter that the attorneys
22 need to address with him on the phone before we
23 start asking you any questions, okay?

24 THE WITNESS: Uh-huh (affirmative

1 response) .

2 MR. IASPARRO: So we're going to
3 conference in the magistrate now --

4 MS. KEEN: (Interrupting) Michael?

5 MR. IASPARRO: Yes.

6 MS. KEEN: Can I just briefly put my
7 thing on the record for -- before we call the
8 magistrate so that the context is clear?

9 MR. IASPARRO: Sure.

10 MS. KEEN: As I stated, Mr. Windham, my
11 name is Roshna Keen. I'm an attorney and I
12 represent Mr. Pursley.

13 Plaintiff had lodged an objection in
14 proceeding with the deposition today because we
15 had not yet been tendered relevant documents
16 pertaining to your testimony. We filed a motion
17 to quash. It's Document No. 133 on the docket in
18 the federal case.

19 As a result of the motion and the court
20 hearing which was held yesterday, this deposition
21 is being done in two parts. Today the defendants
22 will examine you. When they are done with their
23 examination, the subpoena is being continued and
24 the deposition is being held open. Once we obtain

1 the materials that we need, we will then question
2 you. So you are still under subpoena after you
3 leave here today.

4 At this time if the court reporter
5 could please serve you with a copy of the subpoena
6 for the second part of the deposition for
7 plaintiff's questioning of you. It's scheduled
8 for December 5 of this year and in the same
9 location where you are sitting right now.

10 If you'd let me know when the court
11 reporter has tendered the subpoena.

12 THE COURT REPORTER: (Complies.)

13 MR. IASPARRO: She has.

14 MS. KEEN: Thank you.

15 So, Mr. Windham, you have now a copy of
16 the subpoena that obligates you to reappear for
17 your deposition so that plaintiff's counsel has an
18 opportunity to question you. And at this time
19 Judge Johnston will also advise you of your
20 obligation to return and that you're under a
21 continuing subpoena.

22 MR. IASPARRO: Mr. Windham, do you
23 understand what Ms. Keen told you?

24 THE WITNESS: Yes.

1 MR. MOGBANA: That's December 5 at
2 10:00 o'clock?

3 MR. IASPARRO: I believe it's 1:30.

4 MR. MOGBANA: 1:30.

5 MR. IASPARRO: Anything else, Roshna,
6 before I patch in the magistrate judge?

7 MS. KEEN: No. Thank you.

8 (Attorney Iasparro calls the chambers
9 of Magistrate Judge Iain D. Johnston.)

10 (Discussion off the record.)

11 MR. IASPARRO: Mr. Windham, you heard
12 the introductions. My name is Michael Iasparro.
13 I represent seven individually-named retired
14 Rockford police officers in a case filed in
15 federal court by Patrick Pursley against the
16 City of Rockford and several officers.

17 Do you understand that?

18 THE WITNESS: Uh-huh (affirmative
19 response).

20 MR. IASPARRO: You need to answer --

21 THE WITNESS: (Interrupting) Yes.

22 MR. IASPARRO: Is that a yes?

23 THE WITNESS: Yes.

24 MR. IASPARRO: All right. Have you

1 ever given a deposition before, Mr. Windham?

2 THE WITNESS: No.

3 MR. IASPARRO: So let me go through
4 some ground rules with you before we get started
5 with the formal questions and answers.

6 I'll be asking questions of you first.
7 Some of the other attorneys in the room may have
8 some questions of you after I'm done.

9 I'm going to do my best to ask my
10 question and wait for you to answer completely and
11 wait for you to finish your answer before I ask my
12 next question. That way we have a clean record
13 and Andrea can get down everything everybody is
14 saying in the room. Is that fair?

15 THE WITNESS: Uh-huh, yes.

16 MR. IASPARRO: And, secondly, it's
17 difficult for Andrea to take down shrugs of the
18 shoulders or nods of the head. So to make sure we
19 understand exactly what your answers are, we'd ask
20 that you answer verbally, and if, for example, the
21 answer to a question is yes or no, to say yes or
22 no rather than --

23 THE WITNESS: (Interrupting) Right,
24 okay. Yes.

1 MR. IASPARRO: (Continuing) -- uh-huh
2 or huh-uh. You understand?

3 THE WITNESS: Yes.

4 MR. IASPARRO: All right.

5 If for any reason today I ask a
6 question that you didn't hear, you don't
7 understand, you want me to repeat, please tell me
8 that. I want to make sure you understand what I'm
9 asking you. If for some reason you want me to
10 rephrase something, I will. If you don't ask me
11 to do that, I'm going to assume that you
12 understood the questions that I ask you today. Do
13 you understand that?

14 THE WITNESS: Yes.

15 MR. IASPARRO: Is there any reason you
16 could not testify truthfully today, Mr. Windham?

17 THE WITNESS: No.

18 MR. IASPARRO: And you understand
19 you're under oath, correct?

20 THE WITNESS: Yes.

21 MARVIN A. WINDHAM,
22 having been first duly sworn, was examined and
23 testified as follows:

24 BY MR. IASPARRO:

1 Q. Mr. Windham, what is your full name?

2 A. Marvin Anthony Windham.

3 Q. And how old are you, sir?

4 A. Forty-eight.

5 Q. What is your date of birth?

6 A. 3-15-71.

7 Q. Do you currently live here in the Rockford
8 Illinois area?

9 A. Yes, visiting right now.

10 Q. Okay. And who do you live with or who are you
11 visiting here?

12 A. My niece.

13 Q. What is her name?

14 A. Leah, Leah Simms.

15 Q. And how long have you been visiting here in the
16 Rockford area?

17 A. About a couple of months.

18 Q. And before that where were you living?

19 A. Chicago.

20 Q. Were you working when you were in Chicago?

21 A. Labor.

22 Q. And what do you mean by that?

23 A. Housing, fixing up houses.

24 Q. Okay. Are you working here in the Rockford area?

1 A. No, not right now.

2 Q. And who was it that you actually worked for when
3 you were working labor in the Chicago area?

4 A. Sylvia's Leading Edge. She do property and all
5 that.

6 Q. What can --

7 MS. KEEN: (Interrupting) Could you
8 spell that, please?

9 BY MR. IASPARRO:

10 Q. Do you know how to spell that, the company that
11 you worked for?

12 A. Sylvia's Leading Edge.

13 Q. Sylvia's?

14 A. Leading Edge.

15 Q. And Sylvia would be S-y-l-v-i-a?

16 A. Yeah.

17 Q. Could you tell us a little bit about how far you
18 went in school, Mr. Windham, your educational
19 background?

20 A. The highest I went high school was ninth grade. I
21 got my GED.

22 Q. And where was it that you went through ninth
23 grade?

24 A. Alston High School in Chicago, Illinois.

1 Q. And how is it that you obtained your GED?

2 A. In prison.

3 Q. When was that?

4 A. 2001.

5 Q. Have you had any additional training or education
6 beyond the GED from 2001?

7 A. Yes, couple of college credits in a trade, in
8 welding.

9 Q. And where were those college credits?

10 A. IVCC in prison.

11 Q. When was that?

12 A. 2004, 2002, one of them.

13 Q. All right. You received your GED, you indicated.
14 Is it -- can I presume that you can read and
15 write, sir?

16 A. Yes.

17 Q. Mr. Windham, I want to ask you some questions
18 about a man by the name of Patrick Pursley. Are
19 you familiar with that person?

20 A. Yes.

21 Q. Do you remember when it was when you first met
22 Mr. Pursley?

23 A. In work release, and I don't remember what year.
24 I think '92. I think '92. It's been so long,

1 work release center down the street.

2 Q. When you say down the street, that would be here
3 in Rockford, Illinois?

4 A. Yes.

5 Q. To your knowledge had you ever met Mr. Pursley
6 before then?

7 A. No.

8 Q. Do you recall talking to police officers back in
9 1993, June of 1993, and in fact with respect to
10 your knowledge of Mr. Pursley and his involvement
11 in some crimes here in Rockford, Illinois?

12 A. Yes.

13 Q. And do you recall giving a written statement to
14 the Rockford police officers investigating
15 Mr. Pursley at that time?

16 A. Yes.

17 MR. IASPARRO: Will you mark this,
18 Andrea.

19 We're going to mark as Windham
20 Deposition Exhibit No. 1 a copy of the witness
21 statement that is marked with Bates Nos. RFD
22 Defense 247 through 249.

23 (Windham Deposition Exhibit No. 1 was
24 marked for identification.)

1 BY MR. IASPARRO:

2 Q. Mr. Windham, I'm handing you what has been marked
3 as Windham Deposition Exhibit No. 1 for
4 identification, ask you to take a look at that,
5 sir. It's a three-page document. Would you agree
6 with that?

7 A. Yes.

8 Q. And there appear to be some signatures at the
9 bottom of each page of that document. Do you
10 recognize the signature at the bottom right-hand
11 corner of each page?

12 A. Yes.

13 Q. And whose signature is that, sir?

14 A. Mine's.

15 Q. And is it dated June 12, 1993?

16 A. Yes.

17 Q. Mr. Windham, did you sign all three pages of the
18 witness statement on June 12, 1993?

19 A. Yes, I did.

20 Q. Did you provide this witness statement to
21 Detective Bruce Scott of the Rockford Police
22 Department on that date?

23 A. Yes.

24 Q. Did anybody force you to provide this statement on

1 June 12, 1993?

2 A. No.

3 Q. Did anybody coerce you into giving this statement,
4 Mr. Windham?

5 A. No.

6 Q. Mr. Windham, is this your statement from June 12,
7 1993?

8 A. Yes.

9 Q. Did anybody put words in your mouth with respect
10 to this witness statement on June 12, 1993?

11 A. No.

12 Q. Is the statement that you provided to the Rockford
13 Police Department on June 12, 1993, which is
14 Windham Deposition Exhibit No. 1 -- is it the
15 truth, Mr. Windham?

16 A. Yes.

17 Q. And was it the truth on June 12, 1993?

18 A. Yes.

19 Q. Does it remain the truth today?

20 A. Yes.

21 Q. Did any Rockford police officer at any time,
22 Mr. Windham, threaten you or harass you in any way
23 with respect to providing this witness statement?

24 A. No.

1 Q. To the best of your recollection, could you
2 describe the process that Detective Scott employed
3 in having you provide the information that went
4 into this witness statement?

5 A. Don't understand.

6 Q. So were you in an interview room with
7 Detective Scott, if you remember?

8 A. Oh. Yes.

9 Q. And was that at the Rockford Police Department?

10 A. Yes.

11 Q. Do you remember if anybody else was in the room
12 when you were providing this witness statement?

13 A. No. I can't remember.

14 Q. Okay. And when you were providing this
15 information to Detective Scott, what was he doing,
16 was he typing it out?

17 MS. KEEN: Objection, leading.

18 MR. IASPARRO: You can answer.

19 A. I think he was writing first. I can't remember.

20 BY MR. IASPARRO:

21 Q. Do you remember after this statement was prepared
22 whether you were given an opportunity to read
23 through it?

24 A. Look it over, yes.

1 Q. Yes, you were?

2 A. Yes.

3 Q. And were you given an opportunity to make any
4 corrections, if necessary?

5 A. Yes.

6 MS. KEEN: Objection, leading.

7 BY MR. IASPARRO:

8 Q. And did Detective Scott ask you if this statement
9 was the truth?

10 A. Yes.

11 MS. KEEN: Objection, leading.

12 BY MR. IASPARRO:

13 Q. And after the statement was given, did he ask you
14 if you would sign the statement?

15 A. Yes.

16 Q. And did you agree?

17 MS. KEEN: Objection, leading, form.

18 BY MR. IASPARRO:

19 Q. Did you agree to do so?

20 A. Yes.

21 Q. Do you remember, Mr. Windham, when you gave this
22 statement on June 12, 1993, were you handcuffed?

23 A. No.

24 Q. Were you restrained at all that day on June 12,

1 1993, to the best of your recollection?

2 A. No.

3 MS. KEEN: Objection, form.

4 MR. IASPARRO: Your answer was no?

5 THE WITNESS: No.

6 MR. DEVINE: Maybe you should clarify
7 that because he just --

8 MR. IASPARRO: (Interrupting) Let me
9 ask the question again.

10 BY MR. IASPARRO:

11 Q. On June 12, 1993, did any Rockford police officer
12 restrain you in any way?

13 A. No.

14 MS. KEEN: Objection, form.

15 BY MR. IASPARRO:

16 Q. And on that day, Mr. Windham, do you recall if
17 your wife and children accompanied you to the
18 Public Safety Building here in Rockford?

19 A. Yes.

20 Q. And did they?

21 A. Yes.

22 Q. When you were giving this statement to
23 Detective Scott that day, where were your wife and
24 children; do you know?

1 A. In the cafeteria.

2 Q. And to the best of your knowledge, were they
3 treated properly?

4 A. Yes.

5 MS. KEEN: Objection, foundation, form.

6 BY MR. IASPARRO:

7 Q. At any time did your wife or children ever
8 say anything to you about being treated
9 unprofessionally or improperly by any Rockford
10 police officer that day?

11 A. No.

12 Q. At any point on June 12, 1993, Mr. Windham, did
13 any Rockford police officer do anything other than
14 ask you to tell the truth?

15 A. Yes. That's how he did, ask me to --

16 MS. KEEN: (Interrupting) Objection,
17 form.

18 BY MR. IASPARRO:

19 Q. I'm sorry. What was your answer?

20 A. Yes. They just told me tell the truth.

21 Q. They just told you to tell the truth?

22 A. Yes.

23 Q. Is that what you did?

24 A. Yes.

1 Q. Now, I want to back up a few days, if we could,
2 before you gave this written statement,
3 Mr. Windham. Do you recall calling in to
4 Crime Stoppers on June 8, 1993, and providing some
5 information to Crime Stoppers?

6 A. Yes.

7 Q. And was the information you provided to
8 Crime Stoppers, for all intents and purposes,
9 consistent with what information went into the
10 written statement a few days later?

11 A. Yes.

12 Q. Why was it --

13 MS. KEEN: (Interrupting) Objection,
14 form.

15 BY MR. IASPARRO:

16 Q. Why was it that you called Crime Stoppers on
17 June 8, 1993, Mr. Windham?

18 A. Because I was kind of scared.

19 Q. Scared of what?

20 A. Of Patrick. He told me I knew more than what I
21 knew and I'm going to have to start participating.

22 Q. Start participating in what?

23 A. In bank robberies and crimes.

24 Q. Did you want to do that?

1 A. No.

2 Q. Why not?

3 A. I was scared.

4 Q. Scared of whom?

5 A. Patrick.

6 Q. Why were you scared of Patrick?

7 A. Dangerous.

8 Q. Patrick Pursley was dangerous?

9 A. (Witness nods head affirmatively.)

10 Q. Is that a yes?

11 A. Yes.

12 Q. Why did you believe Patrick Pursley was dangerous
13 back in June of 1993?

14 A. Because he used to ride around with guns, robbing
15 banks and stores and stuff.

16 Q. Did anybody force you or coerce you in any way
17 into making that phone call to Crime Stoppers on
18 June 8, 1993?

19 A. No.

20 Q. Is that --

21 MS. KEEN: (Interrupting) Objection,
22 form.

23 BY MR. IASPARRO:

24 Q. Is that something that you did based upon your own

1 decision?

2 A. Yes.

3 Q. And after you called Crime Stoppers, did you call
4 back that day and talk to a couple of detectives?

5 MS. KEEN: Objection, leading.

6 A. Can't remember. I think she connect me to a
7 Foster, Forrester.

8 Q. Okay.

9 A. She connect me to them, and then we talk, but I
10 still was kind of scared, you know, so . . . I'm
11 trying to remember, but . . .

12 Q. Do you remember how long you talked to the
13 detectives on the phone that day, Mr. Windham?

14 A. No, I can't remember how long.

15 Q. And did you provide the detectives your name that
16 day?

17 A. Yes.

18 Q. On the Crime Stoppers call?

19 A. Yes.

20 Q. It was a few days later that you gave the written
21 statement, correct?

22 A. Yes.

23 Q. Why was it that you made the Crime Stoppers call
24 and then it was that couple-of-day gap between

1 then and when you gave the written statement; do
2 you remember?

3 A. I can't remember.

4 MS. KEEN: Objection, foundation.

5 BY MR. IASPARRO:

6 Q. I'm sorry. Did you say, "I can't remember"?

7 A. I can't remember.

8 Q. Okay. Prior to that Crime Stoppers phone call
9 that you made, Mr. Windham . . .

10 A. Yeah.

11 Q. Do you recall if you had ever spoken to either
12 Detective Forrester or Detective Scott with the
13 Rockford Police Department for any reason?

14 A. No. I can't . . . Have I talked to them before I
15 made the call?

16 Q. Yeah. Do you remember if you had spoken to either
17 one of those guys before?

18 A. No, never. She connected me to them. I don't
19 know if I called or she connect me to them a
20 couple days later or not, but I talked to her
21 first and I was telling her the information I had.
22 And then I think that's when she, "Hold on. Let
23 me connect you to these officers," and I think
24 that's when she connect me to Foster or Forrester,

1 whatever.

2 Q. And to the best of your knowledge, have you ever
3 spoken to him before?

4 A. No.

5 Q. On that day on the phone, did either
6 Detective Forrester or Detective Scott provide you
7 with any information or details relating to the
8 murder of a man named Andrew Ascher?

9 A. No.

10 Q. Or about a bank robbery committed by a
11 Patrick Pursley?

12 A. No.

13 Q. Or any information or details about
14 Patrick Pursley's involvement in Andrew Ascher's
15 murder?

16 A. No.

17 MS. KEEN: Objection, form.

18 BY MR. IASPARRO:

19 Q. And did either of the detectives on the phone that
20 day provide you with any information or details
21 about a Burger King robbery committed by
22 Patrick Pursley?

23 A. No.

24 Q. Who was providing the information on the phone

1 that day?

2 MS. KEEN: Objection, form and assumes
3 facts not in evidence.

4 MR. IASPARRO: You can answer.

5 A. I did.

6 BY MR. IASPARRO:

7 Q. Let's move back to -- I guess forward in time now
8 to the day you gave the written statement,
9 June 12, 1993. Mr. Windham, who provided the
10 information that went into the written statement
11 on June 12, 1993?

12 A. Me. I did.

13 Q. Did Detective Scott or any other detective provide
14 you any information or details that you didn't
15 know already regarding Patrick Pursley's
16 involvement in the Andrew Ascher murder?

17 A. No.

18 Q. How about any information or details regarding a
19 bank robbery committed by Patrick Pursley?

20 A. No.

21 Q. Did you provide that information?

22 A. Yes, I did.

23 MS. KEEN: Objection, form, assumes
24 facts not in evidence.

1 BY MR. IASPARRO:

2 Q. And did any detective on June 12, 1993, the day of
3 the written statement, provide any information to
4 you or details to you about a Burger King robbery
5 committed by Patrick Pursley?

6 A. No.

7 MS. KEEN: Objection, assumes facts not
8 in evidence, form.

9 BY MR. IASPARRO:

10 Q. Mr. Windham, do you recall the last time you
11 physically --

12 MS. KEEN: (Interrupting) I didn't
13 hear the witness's answer to that, Michael. What
14 did he say?

15 MR. IASPARRO: He said, "No."

16 BY MR. IASPARRO:

17 Q. Mr. Windham, when is the last time you saw
18 Patrick Pursley in person, if you recall?

19 A. Twenty-some years ago in trial.

20 Q. Have you spoken to Patrick Pursley since that
21 time?

22 A. No.

23 Q. To your knowledge has he made any effort or
24 attempt to reach out to you and speak to you?

1 A. No.

2 Q. Has any lawyer on his behalf reached out and tried
3 to interview you?

4 A. Yes.

5 Q. Who was that?

6 MS. KEEN: Objection, form.

7 A. I don't remember his name. He came down to
8 Lawrenceville last year, and he said that he was
9 representing Patrick. And I told him I don't want
10 nothing to do with it.

11 BY MR. IASPARRO:

12 Q. Lawrenceville is a penitentiary in the state of
13 Illinois?

14 A. Yes.

15 Q. And you were incarcerated at that time?

16 A. Yeah.

17 Q. Do you remember what month that was?

18 A. Can't remember. I want to say something like
19 September.

20 Q. Of last year, 2018?

21 A. Yeah.

22 Q. Do you remember the man's name that came and
23 talked to you?

24 A. No.

1 Q. Did he provide you a business card?

2 A. I think he did. Can't remember. I think he did.

3 Q. Do you remember if he worked for a law firm called
4 Jenner and Block?

5 A. I can't remember.

6 Q. And I think you testified just a few moments ago
7 that you told him you didn't want anything to do
8 with the Patrick Pursley matter; is that right?

9 A. Right.

10 Q. Why did you say that?

11 A. Because I -- I thought it really all was over
12 with, but I . . .

13 Q. Now, let me ask you, at some point after you got
14 out of prison in late 2018, were there some
15 investigators from the Winnebago County State's
16 Attorney's Office that served you with a subpoena?

17 A. Oh. Yes.

18 Q. Where was that?

19 A. Went the courthouse. They served me in Lawrence.

20 Q. At the penitentiary?

21 A. Yeah. And they knew my out date was coming soon,
22 and they was saying, you know, that was the
23 subpoena that I supposed to come to. Think that
24 was in Lawrence.

1 Q. And did you learn at some point after that that
2 Mr. Pursley's retrial in state court got
3 continued?

4 A. Yes.

5 Q. How did you learn that?

6 A. From them.

7 Q. From the investigators?

8 A. Yes.

9 Q. Did anybody ever serve you with another subpoena
10 for the January trial date; do you remember?

11 A. No. I got that subpoena and this one.

12 Q. Okay. And you did not testify at Mr. Pursley's
13 retrial in January, 2019, did you?

14 A. No.

15 Q. I want to back up to 1993. After you gave the
16 written statement, do you remember, did you
17 testify before the grand jury?

18 A. No, just trial.

19 Q. Okay. And the trial I think was in April of 1994.
20 Does that sound right?

21 A. Sounds about right.

22 MS. KEEN: Objection, leading.

23 BY MR. IASPARRO:

24 Q. And you understood when you testified in April,

1 1994, you were under oath?

2 A. Yes.

3 Q. Did you tell the truth during your testimony at
4 Mr. Pursley's trial in April, 1994?

5 A. Yes.

6 Q. I believe, Mr. Pursley (sic), based on some
7 documents that I've reviewed, that you received
8 some money with respect to the information you
9 provided to Crime Stoppers and the police back in
10 1993; is that correct?

11 A. Yes.

12 Q. Do you remember how much that was?

13 A. Can't remember. I think 1,500 or -- I don't know.
14 I can't remember.

15 Q. Did you know you were going to receive money
16 before you provided information to Crime Stoppers
17 and the police?

18 A. Yes.

19 Q. How did you know that?

20 A. Just from Crime Stoppers. Crime Stoppers.

21 Q. And explain what you mean, what was the basis of
22 your knowledge there, how did you know that?

23 A. Crime Stoppers, if you turn somebody in with a
24 crime, you get paid so much amount of money.

1 Q. Was there anything about knowing that you might
2 receive some money that made you say anything that
3 wasn't truthful?

4 A. No.

5 MS. KEEN: Objection, form.

6 BY MR. IASPARRO:

7 Q. If you could look at the first page of your
8 written statement, Mr. Windham, and I'm going to
9 direct your attention to about two-thirds of the
10 way down the page, left-hand side, the sentence
11 that starts with, "He said that he had just killed
12 a pecker the other day and he was going to kill a
13 lot more of them." Do you see that?

14 A. Yeah; yes.

15 Q. And then it goes on, "He pulled out a newspaper
16 clip of the murder of the fireman." Do you see
17 that?

18 A. Yeah.

19 Q. Is the he in those sentences -- that's
20 Patrick Pursley?

21 A. Yes.

22 Q. And the statement goes on, "I read the clip and I
23 asked him why he shot him. He said the paper was
24 lying. He said he walked up to him and said,

1 'This ain't no joke. Give me the money.' He said
2 the guy pulled out his wallet and the lady pulled
3 out her purse. He said that they were not going
4 to give him their purse or their wallet. They
5 were just going to give him the money. He said
6 that is when he shot him two times." Did I read
7 that accurately?

8 A. Yes.

9 Q. And the he in those sentences --

10 MS. KEEN: (Interrupting) Michael,
11 where exactly are you reading from?

12 MR. IASPARRO: Page 1, Bates No. 247,
13 second full paragraph.

14 BY MR. IASPARRO:

15 Q. The he in those sentences, Mr. Windham, is that
16 Patrick Pursley?

17 A. Yes.

18 Q. Did Patrick Pursley admit to you that he killed
19 Andrew Ascher?

20 A. Yes.

21 MS. KEEN: Objection, form, foundation,
22 misstates the evidence.

23 BY MR. IASPARRO:

24 Q. To the best of your knowledge, Mr. Windham, since

1 you testified at Mr. Pursley's trial in April,
2 1994, have you received any messages from
3 Mr. Pursley in any way?

4 A. No, that I recall.

5 Q. Any phone calls?

6 A. No.

7 Q. Any text messages?

8 A. No.

9 Q. Any e-mails?

10 A. No.

11 Q. Any letters?

12 A. No.

13 Q. And to the best of your knowledge, have you spoken
14 to any lawyers from the law firm Loevy and Loevy
15 about the Patrick Pursley case?

16 A. No, that I know of, no.

17 Q. Or other than that attorney that you said came
18 down to Lawrenceville to try to talk to you, have
19 you spoken to any other lawyers at any time about
20 the Patrick Pursley case since 1994?

21 A. No.

22 Q. And, for the record, when I served you or when an
23 investigator and I served you with a subpoena for
24 today's deposition, you and I talked about the

1 case, didn't we?

2 A. Yes.

3 Q. At any time that day, Mr. Windham, did I say --
4 did I tell you to do anything other than tell the
5 truth?

6 A. No, you didn't.

7 Q. And are you -- are you and have you told the truth
8 today, Mr. Windham?

9 A. Yes.

10 MR. IASPARRO: I don't have anything
11 further.

12 MR. DEVINE: I have a few questions,
13 Mr. Windham.

14 My name is James Devine, and I
15 represent several of the police officers in this
16 case.

17 BY MR. DEVINE:

18 Q. One of the officers I represent is
19 Christine McNally, now known as Christine Bishop.
20 Did you ever hear of her?

21 A. No.

22 Q. Do you have any idea who she is?

23 A. No.

24 Q. Never talked to her?

1 A. No.

2 Q. Okay. I also represent an officer named
3 James Barton. You ever hear of James Barton?

4 A. No.

5 Q. Never came into contact with him at all?

6 A. No.

7 Q. How about an officer by the name of Doug Williams,
8 do you know or did you ever meet Doug Williams?

9 A. No.

10 Q. Never came into contact with Doug Williams as far
11 as you know?

12 A. No.

13 MS. KEEN: Objection, foundation.

14 BY MR. DEVINE:

15 Q. And, also, Rockford police officer by the name of
16 Steve Pirages, had you ever come into contact with
17 Steve Pirages?

18 A. No.

19 Q. Either before or after your Crime Stoppers
20 involvement in 1993?

21 A. No.

22 Q. Okay. The other person I represent is
23 Bruce Scott. You have met Bruce Scott; is that
24 correct?

1 A. Yes.

2 Q. Before you called Crime Stoppers in June of 1993,
3 had you ever met, talked to or have any knowledge
4 of Bruce Scott?

5 A. No.

6 Q. Okay. In fact, when you called Crime Stoppers,
7 you didn't ask for a specific detective, did you?

8 A. No.

9 Q. In June of 1993, how many times did you call
10 Crime Stoppers or the police department; do you
11 remember?

12 A. Once or twice.

13 Q. Okay. We know you called them the first time, and
14 that's when you spoke with Detective Forrester; is
15 that right?

16 A. It was a lady. Then she connect me. She went and
17 got Forrester.

18 Q. Okay. And that was strictly a telephone
19 conversation, right?

20 A. Right.

21 Q. Then a few days later, you ended up giving the
22 written statement that's been marked as Exhibit 1
23 to Bruce Scott. Do you recall that?

24 A. Yes.

1 Q. Did that follow another call to the police
2 department by you?

3 MS. KEEN: Objection, leading.

4 I'm sorry. Go ahead.

5 A. I don't remember.

6 BY MR. DEVINE:

7 Q. Do you remember if you came down to the police
8 station or did somebody meet you elsewhere and
9 then you go to the police station?

10 A. Oh, for this statement? For this statement?

11 Q. Yes, sir.

12 A. Oh. They -- they came and got me and my family,
13 took us down there.

14 Q. Okay. Do you know why it was that they came to
15 get you and your family?

16 MS. KEEN: Objection, foundation.

17 A. We had just got back from Chicago. And they
18 almost apprehended him, so they came and got us
19 for our safety or something.

20 BY MR. DEVINE:

21 Q. When you say they almost apprehended him, are you
22 talking about Patrick Pursley?

23 A. Yes.

24 Q. And when you say that they came to get you for

1 your safety, did you call them and ask them to do
2 that?

3 A. No.

4 Q. Okay. Who came to your home?

5 A. I don't know.

6 Q. Okay. Were you placed under arrest?

7 A. No.

8 Q. Did you go down to the --

9 MS. KEEN: (Interrupting) Objection,
10 foundation.

11 BY MR. DEVINE:

12 Q. Did you believe that you were under arrest?

13 A. No.

14 Q. Were you placed in handcuffs?

15 A. No.

16 Q. Were you told you had to go down to the police
17 station?

18 A. No.

19 Q. And when you went down to the police station, did
20 you then give your statement to Bruce Scott?

21 A. Yes.

22 Q. Did Officer Scott threaten you in any way?

23 A. No.

24 Q. Did Officer Scott promise you anything?

1 A. No.

2 Q. Did Officer Scott give you any information that
3 went into the statement that you didn't know
4 about?

5 A. Pardon me?

6 Q. Okay. So did he tell you anything about what you
7 were putting into this written statement?

8 A. Oh. No; no.

9 Q. He didn't say, "Hey, Marvin, say" this, that or
10 the other thing?

11 A. No.

12 Q. Did he suggest in any way any of the things that
13 went into that statement?

14 A. No.

15 MR. DEVINE: I have no further
16 questions.

17 MS. KEEN: Objection, form.

18 MR. POTTINGER: Mr. Windham, my name is
19 R.C. Pottinger. I represent three officers who
20 have since died. One of them is Mr. Forrester,
21 Gary Reffett, David Ekedahl. So I'm going to ask
22 you a few questions about those individuals, if
23 that's okay.

24 THE WITNESS: Okay.

1 BY MR. POTTINGER:

2 Q. First with regard to David Ekedahl, have you ever
3 heard that name?

4 A. No.

5 Q. Okay. To your recollection did you have any
6 contact with an individual by the name of
7 David Ekedahl at any time in your life?

8 A. No.

9 MS. KEEN: Objection, foundation.

10 BY MR. POTTINGER:

11 Q. Same thing with Gary Reffett, do you know who
12 Gary Reffett is?

13 A. No.

14 Q. Okay. And did you ever have any contact with
15 Gary Reffett?

16 A. No.

17 Q. Okay. I want to talk to you about Mr. Forrester,
18 okay?

19 A. Yeah.

20 Q. You said that you spoke to him on the telephone
21 one time?

22 A. Yes.

23 Q. Okay. Did you ever have any contact with
24 Mr. Forrester, to the best of your recollection,

1 except for that telephone call?

2 MS. KEEN: Objection, foundation.

3 A. At the police station he was helping take care of
4 my family. That's about it.

5 BY MR. POTTINGER:

6 Q. Okay. Was he one of the officers that helped --
7 that picked up your family or you and your family?

8 A. Yes.

9 Q. Okay.

10 MS. KEEN: Objection, form.

11 BY MR. POTTINGER:

12 Q. Was that the first time that you had met
13 Mr. Forrester?

14 A. Yes.

15 Q. So your contact with Mr. Forrester is you had the
16 telephone call with him, correct?

17 A. Correct, yes.

18 Q. And then he was one of the officers that you
19 believe helped pick up you and your family --

20 A. (Interrupting) Yeah.

21 Q. (Continuing) -- and took you to the police station
22 the day you gave this statement?

23 A. Yes.

24 Q. Okay. I want to talk first about the telephone

1 call, okay?

2 A. Uh-huh (affirmative response).

3 Q. Did -- during that telephone call did
4 Mr. Forrester coerce you or threaten you in any
5 way?

6 A. No.

7 MS. KEEN: Objection, form.

8 BY MR. POTTINGER:

9 Q. Did you feel intimidated when you were talking to
10 Mr. Forrester?

11 A. No.

12 Q. Did he suggest facts to you about Mr. Pursley or
13 the death of Mr. Ascher, did he tell you how he
14 thought it happened?

15 A. No, because I didn't even know the name of the
16 person, so . . .

17 Q. Okay. Did he tell you any names during the
18 telephone call?

19 A. No.

20 Q. Okay. Did he promise you anything?

21 A. No.

22 Q. Did he give you any reason not to be truthful?

23 A. No.

24 MS. KEEN: Objection, form.

1 BY MR. POTTINGER:

2 Q. Did you speak with him during the ride from your
3 house to the police station?

4 A. No.

5 Q. Did your family, your wife and children, believe
6 that during the time that they were at the police
7 station -- apparently Mr. Forrester may have been
8 with them?

9 A. Uh-huh (affirmative response).

10 Q. At the cafeteria or some other place -- that they
11 felt threatened or intimidated by Mr. Forrester or
12 any other police officer?

13 A. No.

14 MS. KEEN: Objection, foundation, calls
15 for speculation.

16 BY MR. POTTINGER:

17 Q. After the day you gave the statement, did you have
18 any further communication or contact with
19 Mr. Forrester?

20 A. Not that I recall. No. No.

21 Q. What's your wife's name?

22 A. Leann Windham.

23 Q. Are you still married?

24 A. Right now we're separated.

1 Q. And where does Leann live?

2 A. Minnesota.

3 Q. Do you have an address for her?

4 A. No, not right off the top.

5 Q. Do you have a telephone number for her?

6 A. Yes.

7 Q. Do you know what that is?

8 A. 815-723-8756.

9 Q. And how old are your children now?

10 A. Twenty-seven and 28.

11 Q. Without me doing my math, did you both have -- did
12 you have those children at the time you gave that
13 statement?

14 A. Yes.

15 Q. Okay. They must have been really young?

16 A. Yeah, they was young.

17 Q. Okay. Mr. Windham, if later we wanted to contact
18 you or locate you, what's somebody who always
19 knows where you're at, mother . . .

20 A. My sister.

21 Q. Okay. What's her name?

22 A. Tatianna Johnson.

23 Q. Can you spell that, please?

24 A. T-a-t-i-a-n-n-a Johnson.

1 Q. And where does she live?

2 A. Auburn Manor.

3 Q. In Rockford?

4 A. Yeah.

5 Q. Do you have a telephone --

6 MS. KEEN: (Interrupting) What was
7 that word in Rockford?

8 MR. POTTINGER: Auburn Manor.

9 MS. KEEN: Can you spell that? It's
10 not coming through clearly on the speakerphone.

11 MR. IASPARRO: It's Auburn,
12 A-u-b-u-r-n.

13 MS. KEEN: Auburn, okay.

14 MR. IASPARRO: Manor, M-a-n-o-r.

15 BY MR. POTTINGER:

16 Q. And what's Tatianna's telephone number?

17 A. 773-562-8909.

18 Q. Does she work?

19 A. No. She in school.

20 Q. Okay. Is she married?

21 A. Yes.

22 Q. What is her husband's name?

23 A. Bob Simms.

24 MR. POTTINGER: I have nothing further.

1 Thank you.

2 THE WITNESS: You're welcome.

3 MR. MOGBANA: Good morning,

4 Mr. Windham.

5 THE WITNESS: Good morning.

6 MR. MOGBANA: My name is

7 Ifeanyi Mogbana.

8 BY MR. MOGBANA:

9 Q. In addition to the City of Rockford, I also
10 represent a City of Rockford employee named
11 Charlene Getty. Have you heard of that name
12 before?

13 A. No.

14 Q. So it would be fair to say you haven't had any
15 interaction with Miss Getty?

16 A. No.

17 Q. If I heard you correctly earlier, you said you
18 called Crime Stoppers because you were scared or
19 had concerns about your security, correct?

20 A. Yes.

21 Q. And the source of that insecurity was because
22 Mr. Pursley was yet to be arrested, correct?

23 A. Pardon me?

24 Q. Because Mr. Pursley was yet to be arrested at the

1 time.

2 MR. DEVINE: Had not yet been arrested.

3 MS. KEEN: Objection to form.

4 A. No; no.

5 BY MR. MOGBANA:

6 Q. Based on what you've testified to this morning,
7 your experience with the officers of the Rockford
8 Police Department on that date in June, 1993, was
9 pleasant and generally within -- within reason
10 relaxed, it wasn't coercive, you didn't feel any
11 pressure; is that correct?

12 A. No.

13 Q. You didn't have --

14 MS. KEEN: (Interrupting) Objection,
15 leading and form.

16 BY MR. MOGBANA:

17 Q. You didn't have an unpleasant experience
18 throughout that episode, correct?

19 A. No.

20 MS. KEEN: Objection, leading.

21 BY MR. MOGBANA:

22 Q. You also talked --

23 (A brief interruption.)

24 (Incoming phone call from the chambers

1 of Magistrate Judge Iain D. Johnston.)

2 MAGISTRATE JOHNSTON: All right,
3 Counsel. Got a call to chambers. What's going
4 on? How can I help you?

5 MR. IASPARRO: Good morning, Your
6 Honor. This is Michael Iasparro on behalf of
7 Officers Bowman, Gallardo, Genens, Houde, Pobjecky
8 Schmidt and Hanson.

9 Judge, we are in the midst of
10 questioning Mr. Windham, defense counsel are
11 questioning Mr. Windham at the deposition
12 consistent with the Court's order yesterday.

13 And I'll turn this over to Ms. Keen,
14 but, briefly, at her request we have served
15 Mr. Windham with a subpoena for the continued
16 deposition on December 5, 1:30 p.m. And I believe
17 Ms. Keen wanted to ask you to participate this
18 morning just briefly consistent with our
19 discussion yesterday during our telephonic
20 conference.

21 MAGISTRATE JOHNSTON: Okay. Ms. Keen,
22 go ahead.

23 MS. KEEN: Good morning, Your Honor.
24 We wanted to take the Court up on the willingness

1 to advise this witness of his obligation to
2 reappear for the deposition on December 5, 2019,
3 and that he's under a continuing obligation
4 pursuant to the subpoena.

5 MAGISTRATE JOHNSTON: Okay. All right.
6 Is Mr. Windham there?

7 THE WITNESS: Yes.

8 MS. KEEN: Yes.

9 MAGISTRATE JOHNSTON: Morning,
10 Mr. Windham. This is Judge Johnston. How are
11 you?

12 THE WITNESS: I'm doing okay. Good
13 morning.

14 MAGISTRATE JOHNSTON: All right. So
15 you're at the deposition at, sounds like, the law
16 firm of Hinshaw Culbertson. Defense attorneys are
17 asking the questions today. Mr. Pursley's
18 attorneys are going to ask you questions on
19 December 5, 2019, at 1:30 p.m.

20 So you were served with a subpoena to
21 attend the deposition today. That subpoena will
22 be continued on through to December 5, 2019, at
23 1:30 p.m. So you'll need to appear at that date
24 at that time.

1 What's the location of the deposition?

2 MR. IASPARRO: That will also be here
3 at Hinshaw and Culbertson, Judge.

4 MAGISTRATE JOHNSTON: All right. So,
5 Mr. Windham, it's going to be the same place,
6 okay? So just make sure you show up on
7 December 5, 2019, at 1:30 for the resumption of
8 your deposition. Remember, a subpoena is a court
9 order requiring you to attend, so we don't want
10 the marshals to chase you down, all right?

11 THE WITNESS: Okay.

12 MAGISTRATE JOHNSTON: You understand
13 all that, Mr. Windham?

14 THE WITNESS: Yes.

15 MAGISTRATE JOHNSTON: All right. Thank
16 you, sir.

17 Ms. Keen, anything else?

18 MS. KEEN: No. Thank you, Your Honor.

19 MAGISTRATE JOHNSTON: All right.

20 Mr. Iasparro, anything?

21 MR. IASPARRO: No, Judge. Thank you.

22 MAGISTRATE JOHNSTON: All right.

23 Thanks everybody. Have a good day.

24 MR. DEVINE: Thanks, Judge.

1 (Whereupon, the teleconference with
2 Magistrate Judge Iain D. Johnston was concluded.)

3 BY MR. MOGBANA:

4 Q. Mr. Windham, before we had the call, I was asking
5 a few questions, and now I want to ask about the
6 attorney that came down to Lawrenceville. You
7 said it was about September of last year,
8 approximately?

9 A. Yes.

10 Q. Do you recall whether it was a male or a female
11 attorney?

12 A. It was -- it was two males.

13 Q. Are you able to give some description about how
14 they looked, the height? Taking the first one,
15 one of them, how would you describe the person,
16 physical description of the person?

17 A. I can't recall. It's hard to describe.

18 Q. Okay. Are you able to describe whether they were
19 looking younger or older?

20 A. They was kind of older. One of them was the
21 investigator, and the other one said he
22 represented Patrick.

23 Q. All right. So to be sure, you had two male
24 visitors. One was -- described himself to you as

1 an attorney, the other said he was an
2 investigator?

3 A. Right.

4 Q. Do you recall how the investigator looked, any
5 description?

6 A. Can't recall.

7 Q. Do you recall what race they were, were they white
8 or black?

9 A. They was white.

10 Q. Okay. So both of them were white males?

11 A. Yes.

12 Q. Do you recall whether they were slim or big like
13 myself?

14 A. One -- the investigator was kind of older and kind
15 of chunky. And the other one was young.

16 Q. And your recollection is that the attorney looked
17 younger than the investigator?

18 A. Right, yes.

19 Q. And that the investigator also looked a bit
20 chunkier than the attorney?

21 A. Yes.

22 Q. I visited Lawrenceville myself. And I know you
23 just don't get to walk in. Do you recall how the
24 visit came about? How did you know that you were

1 going to receive visitors on that day?

2 A. I didn't -- I didn't know that day. They just
3 called me and told me I had a visit, a special
4 visit -- attorney visit, that what they told me I
5 had.

6 Q. And by they you mean the corrections officers down
7 there at Lawrenceville?

8 A. Yes.

9 Q. Do you recall whether this was just the one
10 time you received visitors from individuals
11 representing Mr. Pursley's interests or whether
12 there was a prior or subsequent occasion?

13 A. One time.

14 Q. The one time?

15 MS. KEEN: Objection, form, foundation.

16 BY MR. MOGBANA:

17 Q. They introduced themselves, the attorney and the
18 investigator, saying that they are representing
19 Mr. Pursley or Mr. Pursley's interests, and you
20 told them that you don't want to talk about -- you
21 didn't want to talk about it; is that correct?

22 A. Yes.

23 Q. What, if anything, else did they tell you at that
24 time?

1 A. They just told me that they represent him and he's
2 out on appeal or something. And I told them I
3 didn't want nothing to do with that no more.

4 Q. Do you recall whether they tried to convince you
5 to talk to them?

6 A. Yeah, they try.

7 MS. KEEN: Objection, form, foundation.

8 BY MR. MOGBANA:

9 Q. Do you recall what they said?

10 A. I can't remember. Can't remember.

11 Q. All right. Do you recall how long the visit was?

12 A. About 15 minutes.

13 Q. All right. And during those 15 minutes, who would
14 you say was doing the majority of the talking, was
15 it you or was it your visitors at the time?

16 A. Visitors.

17 MS. KEEN: Objection, form.

18 BY MR. MOGBANA:

19 Q. Do you recall whether both of them spoke to you?

20 A. Yeah, both of them did.

21 Q. So at some point the investigator --

22 A. (Interrupting) Yeah.

23 Q. (Continuing) -- was talking to you, and then at
24 some point the attorney was talking to you, also?

1 A. Yeah.

2 Q. Is there anything that jumps out at you now
3 what -- maybe the one thing each person said
4 regarding why they were there?

5 A. The attorney said that the gun didn't match,
6 something about the gun didn't match or something.

7 Q. What about the investigator, was there anything
8 that he said that jumped out to you?

9 A. No.

10 Q. Do you remember how the visit concluded? I mean
11 you didn't walk out.

12 A. No, I didn't walk out.

13 Q. All right.

14 A. Because I said that I didn't want to talk, so they
15 was like, you know, they was ready to go.

16 Q. All right. Did they tell you that they would --
17 if you want -- if you change your mind, how you
18 could reach them?

19 A. Yeah.

20 Q. Okay. Do you remember who said --

21 MS. KEEN: (Interrupting) Objection.

22 BY MR. MOGBANA:

23 Q. Do you remember who said that?

24 A. The attorney.

1 Q. All right. Do you recall how he said you could
2 get in touch with him?

3 A. No. I think he left me a card.

4 Q. They did not or they did?

5 A. They did.

6 Q. They did?

7 A. Yes.

8 Q. Do you recall where you -- what happened to the
9 card?

10 A. I don't know. I think I threw it away.

11 Q. Okay. But you took it from the meeting?

12 A. Yeah.

13 Q. All right. Do you recall how long that was in
14 relation to your out date from -- either your
15 out -- your out date from IDOC?

16 A. It was -- it was real close. I got out in
17 October, October the 1st.

18 Q. Okay.

19 A. And it was -- it was real close that they served
20 me with the subpoena because they knew I was
21 getting out.

22 Q. Okay. I just want to make sure that we're not
23 confusing things. This is the visit from the
24 attorneys who said they were representing

1 Mr. Pursley?

2 A. Yes.

3 Q. And you said that they -- they served you with a
4 subpoena during that visit?

5 A. Yeah; yes.

6 Q. Okay. And they -- you said that the visit was
7 close to your out date, correct?

8 A. Yes.

9 Q. And your out date was October 1?

10 A. Yes.

11 Q. And you left IDOC from Lawrenceville, you didn't
12 transfer to any other location?

13 A. Huh-uh (negative response). I went to the county
14 and bonded out.

15 Q. Okay.

16 A. I went to Cook County and bonded out October 1.

17 Q. But just to make sure, the last IDOC facility that
18 you were housed at was Lawrenceville?

19 A. Pardon me?

20 Q. From Lawrenceville you moved to Winnebago --
21 sorry, to Cook County Jail, you didn't go to any
22 other IDOC facility?

23 A. No.

24 MR. MOGBANA: I don't have any other

1 questions.

2 MS. KOZAR: Mr. Windham, I just have a
3 couple questions. I represent three individuals
4 who work for the State of Illinois. Their names
5 are Daniel Gunnell, Peter Striupaitis and
6 Jack Welty.

7 BY MS. KOZAR:

8 Q. Do you recall if during the time back in 1993 when
9 you were communicating with Crime Stoppers --

10 MS. KEEN: (Interrupting) I'm sorry to
11 interrupt. I can't hear properly. It's coming in
12 and out.

13 MS. KOZAR: Okay. I'm sorry. I'll
14 talk louder.

15 BY MS. KOZAR:

16 Q. Do you recall --

17 MS. KEEN: (Interrupting) Thank you.

18 MS. KOZAR: Can you hear me now?

19 MS. KEEN: Yes, I can. Thank you.

20 BY MS. KOZAR:

21 Q. Okay. Do you recall back in 1993 when you were
22 talking to Crime Stoppers about the incident with
23 Patrick Pursley, did you have any communication
24 with anyone from the State of Illinois at that

1 time?

2 A. No.

3 Q. Okay. Do you recognize the name Daniel Gunnell?

4 A. No.

5 Q. To your knowledge have you ever had any
6 communication with anyone named Daniel Gunnell?

7 A. No.

8 Q. Do you recognize the name Peter Striupaitis?

9 A. No.

10 Q. To your recollection have you ever had any
11 communication with anyone by that name?

12 A. No.

13 Q. And do you recognize the name John Welty?

14 A. No.

15 Q. To your knowledge have you ever had any
16 communication with him?

17 A. No.

18 MS. KOZAR: Okay. I don't have any
19 other questions.

20 MR. IASPARRO: Mr. Windham, this is
21 Michael Iasparro again. I'm going to ask you a
22 few questions to wrap up -- unless anybody else
23 has questions after this -- similar to the
24 questions that everybody else has asked you.

1 I represent seven retired Rockford
2 police officers. I want to ask you about each of
3 them individually as well.

4 BY MR. IASPARRO:

5 Q. To the best of your knowledge, have you ever met a
6 retired Rockford police officer by the name of
7 Jim Bowman?

8 A. No.

9 Q. And to the best of your knowledge, did you have
10 any contact with Mr. Bowman back in 1993 when you
11 were providing information about Patrick Pursley?

12 A. No.

13 Q. Do you recognize the name Ron Gallardo?

14 A. No.

15 Q. To the best of your knowledge, did you ever have
16 any contact with a Rockford police officer by the
17 name of Ron Gallardo at any time?

18 A. No.

19 Q. Do you recognize the name John Genens?

20 A. No.

21 Q. To the best of your knowledge, have you ever had
22 any contact with or met a man by the name of
23 John Genens?

24 A. No.

1 Q. Do you recognize the name Jeff Houde?

2 A. No.

3 Q. To the best of your knowledge, have you ever met
4 or had any contact with Jeff Houde?

5 A. No.

6 Q. Recognize the name Sam Pobjecky?

7 A. No.

8 Q. To the best of your knowledge, have you ever met
9 or had any contact with a man named Sam Pobjecky?

10 A. No.

11 Q. Two more. Have you ever met a man named
12 Mark Schmidt?

13 A. No.

14 Q. Do you recognize that name as a retired Rockford
15 police detective?

16 A. No.

17 Q. To the best of your knowledge, did you ever have
18 any contact with Mr. Schmidt?

19 A. No.

20 Q. And, lastly, do you recognize the name
21 Greg Hanson?

22 A. No.

23 Q. To the best of your knowledge, did you ever have
24 any contact with a Rockford police officer by the

1 name of Greg Hanson at any time?

2 A. No.

3 MR. IASPARRO: Thank you. That's all I
4 have.

5 MR. DEVINE: Nothing from me.

6 MR. POTTINGER: No further questions.

7 MS. KOZAR: Nothing from me.

8 MR. MOGBANA: Nothing.

9 MS. KEEN: I'm sorry. Is someone
10 speaking?

11 MR. IASPARRO: I think everybody said
12 those are all the questions that we've got, so
13 unless there's anything that anybody needs to put
14 on the record, I think we're done with
15 Mr. Windham's deposition for today at least.

16 MS. KEEN: Right. It's just a reminder
17 that we're not done with the deposition in full
18 for today. The defendants have concluded their
19 questioning of you. Mr. Pursley's attorneys,
20 that's myself, we are going to be questioning you,
21 as the judge advised.

22 So we look forward to seeing you on
23 December 5 of this year in the same room that
24 you're in right now, because you are under

1 subpoena. So can we expect to see you in this
2 room on December 5, Mr. Windham?

3 THE WITNESS: Yes.

4 MS. KEEN: Okay. Thank you for your
5 time.

6 MR. IASPARRO: Thanks everybody. We
7 will talk to you a little later today.

8 (Whereupon, at 11:24 a.m. on
9 October 15, 2019, this portion of the deposition
10 was concluded.)
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1 CERTIFICATE OF SHORTHAND REPORTER

2 I, Andrea L. D'Agnolo, a Certified
3 Shorthand Reporter and Notary Public in and for
4 the State of Illinois, do certify that the
5 deposition of Marvin A. Windham was taken
6 before me on the 15th day of October, 2019, at
7 10:17 a.m., in the offices of Hinshaw & Culbertson
8 LLP, Rockford, Illinois; that said witness was
9 sworn to testify to the truth and nothing but the
10 truth relative to said cause; that the deposition
11 is a true and correct record of the testimony
12 given by the witness.

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Andrea L. D'Agnolo
Certified Shorthand Reporter

Dated this 29th day of October, 2019.

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aberdeen 2:2 able 52:13,18 aboveentitled 1:20 accompanied 19:17 accurately 33:7 action 1:20 addition 47:9 additional 13:5 address 5:22 45:3 administrator 1:10 admit 33:18 advise 7:19 50:1 advised 63:21 affirmative 5:24 8:18 43:2 44:9 affirmatively 22:9 ago 27:19 29:6 agree 15:5 18:16 18:19 ahead 38:4 49:22 aint 33:1 alston 12:24 amanda 2:21 4:23 amended 4:4 amount 31:24 andrea 1:22 9:13 9:17 14:18 65:2 65:10 andrew 25:8,14 26:16 33:19 ann 2:5 answer 8:20 9:10 9:11,20,21 17:18 19:4 20:19 26:4 27:13 answers 9:5,19 anthony 11:2 anybody 15:24 16:3,9 17:11 22:16 30:9 60:22 63:13 apparently 44:7 appeal 55:2 appear 15:8 50:23	appeared 2:3,5,8 2:11,15,18,22 apprehended 38:18,21 approximately 52:8 april 30:19,24 31:4 34:1 arbor 2:5 area 11:8,16,24 12:3 arrest 39:6,12 arrested 47:22,24 48:2 ascher 25:8 26:16 33:19 43:13 aschers 25:14 ashley 2:4 5:9 asked 32:23 60:24 asking 5:23 9:6 10:9 50:17 52:4 assume 10:11 assumes 26:2,23 27:7 attempt 27:24 attend 50:21 51:9 attention 32:9 attorney 2:2,4,7 2:10,13,17,21 2:21 6:11 8:8 34:17 52:6,11 53:1,16,20 54:4 54:17 55:24 56:5,24 attorneys 5:21 9:7 29:16 50:16,18 57:24 63:19 auburn 46:2,8,11 46:12,13 avenue 1:20 2:14	balsley 2:18 bank 21:23 25:10 26:19 banks 22:15 barrick 2:17 barton 1:6 2:11 4:18 36:3,3 based 22:24 31:6 48:6 basis 31:21 bates 14:21 33:12 behalf 1:18 2:3,6 2:8,11,15,18,22 28:2 49:6 believe 8:3 22:12 31:6 39:12 42:19 44:5 49:16 best 4:8 9:9 17:1 19:1 20:2 25:2 33:24 34:13 41:24 61:5,9,15 61:21 62:3,8,17 62:23 beyond 13:6 big 53:12 birth 11:5 bishop 1:8 2:12 4:18 35:19 bit 12:17 53:19 black 53:8 block 29:4 bob 46:23 bonded 58:14,16 bottom 15:9,10 bowman 1:7,18 2:15 4:13 49:7 61:7,10 box 2:11,14 brief 48:23 briefly 6:6 49:14 49:18 bruce 1:9 2:12 4:19 15:21 36:23,23 37:4 37:23 39:20 building 19:18 burger 25:21 27:4 business 29:1	c 2:1,5,7,17 4:1,20 40:19 cafeteria 20:1 44:10 call 5:18,19 6:7 22:17 23:3,18 23:23 24:8,15 37:9 38:1 39:1 42:1,16 43:1,3 43:18 48:24 49:3 52:4 called 21:16 23:3 24:19 29:3 37:2 37:6,13 47:18 54:3 calling 21:3 calls 8:8 34:5 44:14 cant 17:13,19 23:6,14 24:3,6,7 24:14 28:18 29:2,5 31:13,14 52:17 53:6 55:10,10 59:11 card 29:1 57:3,9 care 42:3 case 6:18 8:14 34:15,20 35:1 35:16 cause 65:6 center 14:1 certificate 3:20 65:1 certified 1:22 65:2,10 certify 65:3 chambers 8:8 48:24 49:3 change 56:17 charlene 1:7 2:8 5:2 47:11 chase 51:10 chicago 2:3,22 11:19,20 12:3 12:24 38:17 children 19:17,24 20:7 44:5 45:9 45:12 christine 1:8 2:12	4:18 35:19,19 chunkier 53:20 chunky 53:15 city 1:6,10,10 2:7 2:8 5:2 8:16 47:9,10 clarify 19:6 clean 9:12 clear 6:8 clearly 46:10 clip 32:16,22 close 57:16,19 58:7 coerce 16:3 22:16 43:4 coersive 48:10 college 13:7,9 come 29:23 36:16 coming 29:21 46:10 59:11 commencing 1:21 committed 25:10 25:21 26:19 27:5 communicating 59:9 communication 44:18 59:23 60:6,11,16 company 12:10 completely 9:10 complies 7:12 concerns 47:19 concluded 52:2 56:10 63:18 64:10 conference 4:5 5:19 6:3 49:20 confusing 57:23 connect 23:6,9 24:19,23,24 37:16 connected 24:18 consistent 21:9 49:12,18 contact 36:5,10 36:16 41:6,14 41:23 42:15 44:18 45:17 61:10,16,22
	B			
	back 14:8 21:1 22:13 23:4 26:7 30:15 31:9 38:17 59:8,21 61:10 background 12:19 bala 2:2			

62:4,9,18,24 context 6:8 continued 6:23 30:3 49:15 50:22 continuing 7:21 10:1 42:21 50:3 55:23 conversation 37:19 convince 55:4 cook 58:16,21 copy 7:5,15 14:20 corner 15:11 correct 5:14,15 10:19 23:21 31:10 36:24 42:16,17 47:19 47:22 48:11,18 54:21 58:7 65:6 corrections 18:4 54:6 correctly 47:17 counsel 5:4 7:17 49:3,10 county 29:15 58:13,16,21 couple 11:17 13:7 23:4 24:20 59:3 coupleofday 23:24 court 1:1 6:19 7:4 7:10,12 8:15 30:2 49:24 51:8 courthouse 29:19 courts 49:12 credits 13:7,9 crime 1:15 21:4,5 21:8,16 22:17 23:3,18,23 24:8 31:9,16,20,20 31:23,24 36:19 37:2,6,10 47:18 59:9,22 crimes 14:11 21:23 culbertson 1:20 2:14 4:6 50:16 51:3 65:4 currently 11:7	D d 3:1 4:1 8:9 49:1 52:2 dagnolo 1:22 65:2 65:10 dangerous 22:7,8 22:12 daniel 1:14 2:22 59:5 60:3,6 date 11:5 15:22 29:21 30:10 48:8 50:23 57:14,15 58:7,9 dated 15:15 65:12 david 1:12 2:19 4:22 40:21 41:2 41:7 day 1:21 18:24 19:16,23 20:10 23:4,13,16 25:5 25:20 26:1,8 27:2 32:12 35:3 42:22 44:17 51:23 54:1,2 65:4,12 days 21:1,10 23:20 24:20 37:21 death 43:13 december 7:8 8:1 49:16 50:2,19 50:22 51:7 63:23 64:2 decision 23:1 defendants 1:16 1:19 2:9,12,16 2:20,23 4:12,24 6:21 63:18 defense 14:22 49:10 50:16 department 1:13 2:7 15:22 16:13 17:9 24:13 37:10 38:2 48:8 deposition 1:5,18 3:12 4:3 5:20 6:14,20,24 7:6 7:17 9:1 14:20 14:23 15:3 16:14 34:24	49:11,16 50:2 50:15,21 51:1,8 63:15,17 64:9 65:3,6 describe 17:2 52:15,17,18 described 52:24 description 52:13 52:16 53:5 details 25:7,13,20 26:14,18 27:4 detective 15:21 17:2,7,15 18:8 19:23 24:12,12 25:6,6 26:13,13 27:2 37:7,14 62:15 detectives 23:4,13 23:15 25:19 devine 2:10 3:3 4:16,16 19:6 35:12,14,17 36:14 38:6,20 39:11 40:15 48:2 51:24 63:5 didnt 10:6 26:14 27:12 29:7 35:1 35:6 37:7 40:3,9 43:15 48:10,13 48:17 54:2,2,21 55:3 56:5,6,11 56:12,14 58:11 58:21 died 40:20 difficult 9:17 direct 32:9 discussion 8:10 49:19 district 1:1,2 docket 6:17 document 6:17 15:5,9 documents 6:15 31:7 doing 5:7 17:15 45:11 50:12 55:14 dont 10:6,10 13:23 17:5 24:18 28:7,9	31:13 35:10 38:5 39:5 51:9 53:23 54:20 57:10 58:24 60:18 doug 1:9 2:12 4:19 36:7,8,10 drive 2:18 duly 10:22 E e 2:1,1 3:1 4:1,1 earlier 47:17 east 2:7 edge 12:4,12,14 education 13:5 educational 12:18 effort 27:23 either 24:11,16 25:5,19 36:19 57:14 ekedahl 1:12 2:19 4:22 40:21 41:2 41:7 emails 34:9 employed 17:2 employee 47:10 employees 1:13 1:15 ended 37:21 episode 48:18 estate 1:11,12,12 2:19,19,19 estates 4:21 evera 2:18 everybody 9:13 51:23 60:24 63:11 64:6 evidence 26:3,24 27:8 33:22 exactly 9:19 33:11 examination 3:2 6:23 examine 6:22 examined 10:22 example 9:20 exhibit 3:11,12 14:20,23 15:3 16:14 37:22 exhibits 3:10	expect 64:1 experience 48:7 48:17 explain 31:21 F f 2:13 facility 58:17,22 fact 14:9 37:6 facts 26:3,24 27:7 43:12 fair 9:14 47:14 familiar 13:19 family 38:12,15 42:4,7,7,19 44:5 far 12:17 36:10 federal 6:18 8:15 feel 43:9 48:10 felt 44:11 female 52:10 filed 6:16 8:14 finish 9:11 fireman 32:16 firm 2:2,5,10,14 2:17 29:3 34:14 50:16 first 9:6 10:22 13:21 17:19 24:21 32:7 37:13 41:2 42:12,24 52:14 fixing 11:23 floor 2:3,11,22 follow 38:1 follows 10:23 force 15:24 22:16 form 18:17 19:3 19:14 20:5,17 21:14 22:22 25:17 26:2,23 27:8 28:6 32:5 33:21 40:17 42:10 43:7,24 48:3,15 54:15 55:7,17 formal 9:5 forrester 1:11 2:19 4:21 23:7 24:12,24 25:6 37:14,17 40:20
---	---	--	---	---

41:17,24 42:13 42:15 43:4,10 44:7,11,19 fortyeight 11:4 forward 26:7 63:22 foster 23:7 24:24 foundation 20:5 24:4 33:21 36:13 38:16 39:10 41:9 42:2 44:14 54:15 55:7 fourth 2:11 full 11:1 33:13 63:17 further 4:10 35:11 40:15 44:18 46:24 63:6	goes 32:15,22 going 5:18 6:2 9:9 10:11 14:19 21:21 31:15 32:8,12 33:3,5 40:21 49:3 50:18 51:5 54:1 60:21 63:20 good 5:3,8,11 47:3,5 49:5,23 50:12 51:23 grade 12:20,23 grand 30:17 greg 1:9,19 2:16 4:15 62:21 63:1 ground 9:4 guess 4:8 26:7 gun 56:5,6 gunnell 1:14 2:22 59:5 60:3,6 guns 22:14 guy 33:2 guys 24:17	hey 40:9 high 12:20,24 highest 12:20 hinshaw 1:20 2:14 4:6 50:16 51:3 65:4 hold 24:22 home 39:4 honor 49:6,23 51:18 hooper 2:5 houde 1:8,19 2:15 4:14 49:7 62:1,4 house 44:3 housed 58:18 houses 11:23 housing 11:23 howard 1:11 2:19 4:21 huhuh 10:2 58:13 husbands 46:22	58:17,22 ifeanyi 2:7 5:1 47:7 ill 9:6 49:13 59:13 illinois 1:2,15,21 1:23 2:3,8,11,14 2:18,21,22 4:24 11:8 12:24 14:3 14:11 28:13 59:4,24 65:3,5 im 6:11 9:8,9 10:8 10:11 15:2 20:19 21:21 23:10 24:6 32:8 38:4 40:21 50:12 59:10,13 60:21 63:9 improperly 20:9 incarcerated 28:15 incident 59:22 incoming 48:24 indicated 13:13 individual 41:6 individually 61:3 individually 61:3 4:12 8:13 individuals 40:22 54:10 59:3 information 17:3 17:15 21:5,7,9 24:21 25:7,13 25:20,24 26:10 26:14,18,21 27:3 31:8,16 40:2 61:11 insecurity 47:21 intent 21:8 interaction 47:15 interests 54:11,19 interrupt 59:11 interrupting 6:4 8:21 9:23 12:7 19:8 20:16 21:13 22:21 27:12 33:10 39:9 42:20 46:6 48:14 55:22 56:21 59:10,17 interruption	48:23 interview 17:6 28:3 intimidated 43:9 44:11 introduce 4:9 introduced 54:17 introductions 8:12 investigating 14:14 investigator 34:23 52:21 53:2,4,14,17,19 54:18 55:21 56:7 investigators 29:15 30:7 involvement 14:10 25:14 26:16 36:20 ivcc 13:10 ive 31:7
<hr/> G <hr/> g 4:1 gallardo 1:7,18 2:15 4:13 49:7 61:13,17 gap 23:24 gary 1:12 2:19 4:22 40:21 41:11,12,15 ged 12:21 13:1,6 13:13 genens 1:7,19 2:15 4:14 49:7 61:19,23 generally 48:9 generals 2:21 getting 57:21 getty 1:7 2:8 5:2 47:11,15 give 33:1,4,5 39:20 40:2 43:22 52:13 given 9:1 17:22 18:3,13 65:7 giving 14:13 16:3 19:22 37:21 go 4:10 9:3 38:4,9 39:8,16 49:22 56:15 58:21	<hr/> H <hr/> handcuffed 18:22 handcuffs 39:14 handing 15:2 hanson 1:9,19 2:16 4:15 49:8 62:21 63:1 happened 43:14 57:8 harass 16:22 hard 52:17 hathaway 2:5 havent 47:14 head 9:18 22:9 hear 10:6 27:13 35:20 36:3 59:11,18 heard 8:11 41:3 47:11,17 hearing 6:20 height 52:14 held 6:20,24 help 49:4 helped 42:6,19 helping 42:3 hes 50:3 55:1	<hr/> I <hr/> iain 8:9 49:1 52:2 iasparro 2:13 3:3 3:5 4:2,11 5:12 5:16 6:2,5,9 7:13,22 8:3,5,8 8:11,12,20,22 8:24 9:3,16 10:1 10:4,15,18,24 12:9 14:17 15:1 17:18,20 18:7 18:12,18 19:4,8 19:10,15 20:6 20:18 21:15 22:23 24:5 25:18 26:4,6 27:1,9,15,16 28:11 30:23 32:6 33:12,14 33:23 35:10 46:11,14 49:5,6 51:2,20,21 60:20,21 61:4 63:3,11 64:6 idea 35:22 identification 14:24 15:4 idoc 57:15 58:11	if 6:11 9:8,9 10:8 10:11 15:2 20:19 21:21 23:10 24:6 32:8 38:4 40:21 50:12 59:10,13 60:21 63:9 improperly 20:9 incarcerated 28:15 incident 59:22 incoming 48:24 indicated 13:13 individual 41:6 individually 61:3 individually 61:3 4:12 8:13 individuals 40:22 54:10 59:3 information 17:3 17:15 21:5,7,9 24:21 25:7,13 25:20,24 26:10 26:14,18,21 27:3 31:8,16 40:2 61:11 insecurity 47:21 intent 21:8 interaction 47:15 interests 54:11,19 interrupt 59:11 interrupting 6:4 8:21 9:23 12:7 19:8 20:16 21:13 22:21 27:12 33:10 39:9 42:20 46:6 48:14 55:22 56:21 59:10,17 interruption	<hr/> J <hr/> jack 1:14 2:23 59:6 jail 58:21 james 1:6 2:10,11 4:16,18 35:14 36:3,3 january 30:10,13 jeff 1:8,19 2:15 4:14 62:1,4 jenner 29:4 jim 1:7,18 2:15 4:13 61:7 john 1:7,19 2:15 4:14 60:13 61:19,23 johnson 45:22,24 johnston 7:19 8:9 49:1,2,21 50:5,9 50:10,14 51:4 51:12,15,19,22 52:2 joke 33:1 judge 5:18 7:19 8:6,9 49:1,9 50:10 51:3,21

51:24 52:2 63:21 jumped 56:8 jumps 56:2 june 14:9 15:15 15:18 16:1,6,10 16:13,17 18:22 18:24 19:11 20:12 21:4,17 22:13,18 26:9 26:11 27:2 37:2 37:9 48:8 jury 30:17	38:14 39:5 40:3 41:11 43:15 45:7 53:22,24 54:2 56:15 57:10 knowing 32:1 knowledge 14:5 14:10 20:2 25:2 27:23 31:22 33:24 34:13 37:3 60:5,15 61:5,9,15,21 62:3,8,17,23 known 35:19 knows 45:19 kozar 2:21 3:5 4:23,23 59:2,7 59:13,15,18,20 60:18 63:7	life 41:7 little 12:17 64:7 live 11:7,10 45:1 46:1 living 11:18 llp 1:20 2:10,14 2:18 65:5 locate 45:18 location 7:9 51:1 58:12 lodged 6:13 loevy 2:2,2 34:14 34:14 long 2:17 11:15 13:24 23:12,14 55:11 57:13 look 15:4 17:24 32:7 63:22 looked 52:14 53:4 53:16,19 looking 52:19 lot 32:13 louder 59:14 lying 32:24	37:22 married 44:23 46:20 marshals 51:10 marvin 1:6,18 3:3 4:3 10:21 11:2 40:9 65:3 match 56:5,6 materials 7:1 math 45:11 matter 4:13 5:21 29:8 mcnally 4:18 35:19 mean 11:22 31:21 54:6 56:10 meet 36:8 38:8 meeting 57:11 messages 34:2,7 met 13:21 14:5 36:23 37:3 42:12 61:5,22 62:3,8,11 michael 2:13 4:11 6:4 8:12 27:13 33:10 49:6 60:21 michigan 2:5 midst 49:9 mind 56:17 mines 15:14 minnesota 45:2 minutes 55:12,13 misstates 33:22 mogbana 2:7 3:4 5:1,1 8:1,4 47:3 47:6,7,8 48:5,16 48:21 52:3 54:16 55:8,18 56:22 58:24 63:8 moments 29:6 money 31:8,15,24 32:2 33:1,5 month 28:17 months 11:17 morning 5:3,8,11 47:3,5 48:6 49:5 49:18,23 50:9 50:13	mother 45:19 motion 6:16,19 mouth 16:9 move 26:7 moved 58:20 murder 25:8,15 26:16 32:16
K	L	M	N	
keen 2:2 5:3,4,15 6:4,6,10,11 7:14 7:23 8:7 12:7 17:17 18:6,11 18:17 19:3,14 20:5,16 21:13 22:21 23:5 24:4 25:17 26:2,23 27:7,12 28:6 30:22 32:5 33:10,21 36:13 38:3,16 39:9 40:17 41:9 42:2 42:10 43:7,24 44:14 46:6,9,13 48:3,14,20 49:13,17,21,23 50:8 51:17,18 54:15 55:7,17 56:21 59:10,17 59:19 63:9,16 64:4 kill 32:12 killed 32:11 33:18 kind 21:18 23:10 52:20 53:14,14 king 25:21 27:4 knew 21:20,21 29:21 57:20 know 7:10 12:10 19:24 23:10 24:19 26:15 29:22 31:13,15 31:19,22 34:16 36:8,11 37:13	11:22 2:21 65:2 65:10 lab 1:15 labor 11:21 12:3 lady 33:2 37:16 lastly 62:20 late 29:14 law 2:7 29:3 34:14 50:15 lawrence 29:19 29:24 lawrenceville 28:8,12 34:18 52:6 53:22 54:7 58:11,18,20 lawyer 28:2 lawyers 34:14,19 leading 12:4,12 12:14 17:17 18:6,11,17 23:5 30:22 38:3 48:15,20 leah 11:14,14 leann 44:22 45:1 learn 30:1,5 leave 7:3 left 57:3 58:11 lefthand 32:10 letters 34:11	m 1:21 49:16 50:19,23 64:8 65:4 magistrate 5:18 6:3,8 8:6,9 49:1 49:2,21 50:5,9 50:14 51:4,12 51:15,19,22 52:2 main 2:5 majority 55:14 making 22:17 male 52:10,23 males 52:12 53:10 man 13:18 25:8 61:22 62:9,11 manor 46:2,8,14 46:14 mans 28:22 mark 1:8,19 2:16 4:15 14:17,19 62:12 marked 3:11 14:21,24 15:2	named 25:8 36:2 47:10 60:6 62:9 62:11 names 43:17 59:4 necessary 18:4 need 5:22 7:1 8:20 50:23 needs 63:13 negative 58:13 never 24:18 35:24 36:5,10 newspaper 32:15 niece 11:12 ninth 12:20,22 nods 9:18 22:9 north 2:2,5 northern 1:2 nos 14:21 notary 1:22 65:2 notice 4:4 number 45:5 46:16	n 2:1 3:1 4:1 name 5:4,8 6:11 8:12 11:1,13 13:18 23:15 28:7,22 35:14 36:7,15 40:18 41:3,6 43:15 44:21 45:21 46:22 47:6,11 60:3,8,11,13 61:6,13,17,19 61:22 62:1,6,14 62:20 63:1 named 25:8 36:2 47:10 60:6 62:9 62:11 names 43:17 59:4 necessary 18:4 need 5:22 7:1 8:20 50:23 needs 63:13 negative 58:13 never 24:18 35:24 36:5,10 newspaper 32:15 niece 11:12 ninth 12:20,22 nods 9:18 22:9 north 2:2,5 northern 1:2 nos 14:21 notary 1:22 65:2 notice 4:4 number 45:5 46:16
			O	
			o 2:11,14 4:1 oath 10:19 31:1 objection 6:13 17:17 18:6,11	

18:17 19:3,14 20:5,16 21:13 22:21 23:5 24:4 25:17 26:2,23 27:7 28:6 30:22 32:5 33:21 36:13 38:3,16 39:9 40:17 41:9 42:2,10 43:7,24 44:14 48:3,14 48:20 54:15 55:7,17 56:21 obligates 7:16 obligation 7:20 50:1,3 obtain 6:24 obtained 13:1 occasion 54:12 oclock 8:2 october 1:21 57:17,17 58:9 58:16 64:9 65:4 65:12 office 2:21 29:16 officer 16:21 19:11 20:10,13 36:2,7,15 39:22 39:24 40:2 44:12 61:6,16 62:24 officers 8:14,16 14:8,14 24:23 35:15,18 40:19 42:6,18 48:7 49:7 54:6 61:2 offices 1:20 65:4 oh 17:8 29:17 38:10,12 40:8 okay 5:23 9:24 11:10,24 17:14 23:8 24:8 30:12 30:19 36:2,22 37:6,13,18 38:14 39:4,6 40:6,23,24 41:5 41:14,17,18,23 42:6,9,24 43:1 43:17,20 45:15 45:17,21 46:13 46:20 49:21	50:5,12 51:6,11 52:18 53:10 56:20 57:11,18 57:22 58:6,15 59:13,21 60:3 60:18 64:4 old 11:3 45:9 older 52:19,20 53:14 once 6:24 37:12 open 6:24 opportunity 7:18 17:22 18:3 order 49:12 51:9	person 13:19 27:18 36:22 43:16 52:15,16 56:3 pertaining 6:16 peter 1:14 2:23 59:5 60:8 phone 4:7 5:22 22:17 23:13 24:8 25:5,19,24 34:5 48:24 physical 52:16 physically 27:11 pick 42:19 picked 42:7 pirages 1:9 2:12 4:19 36:16,17 place 44:10 51:5 placed 39:6,14 plaintiff 1:4 2:3,6 6:13 plaintiffs 7:7,17 pleasant 48:9 please 7:5 10:7 12:8 45:23 pobjecky 1:8,19 2:15 4:14 49:7 62:6,9 point 20:12 29:13 30:1 55:21,24 police 1:13,15 8:14 14:8,14 15:21 16:13,21 17:9 19:11 20:10,13 24:13 31:9,17 35:15 36:15 37:10 38:1,7,9 39:16 39:19 42:3,21 44:3,6,12 48:8 61:2,6,16 62:15 62:24 portion 64:9 pottinger 2:17 3:4 4:20,20 40:18 40:19 41:1,10 42:5,11 43:8 44:1,16 46:8,15 46:24 63:6 prepared 17:21	present 2:24 4:5 pressure 48:11 presume 13:14 prior 24:8 54:12 prison 13:2,10 29:14 proceeding 6:14 process 17:2 promise 39:24 43:20 properly 20:3 59:11 property 12:4 provide 15:20,24 17:3 23:15 25:6 25:20 26:13,21 27:3 29:1 provided 16:12 21:7 26:9 31:9 31:16 providing 16:23 17:12,14 21:4 25:24 61:11 public 1:22 19:18 65:2 pulled 32:15 33:2 33:2 purposes 21:8 purse 33:3,4 pursley 1:3 2:24 5:5,10,13 6:12 8:15 13:18,22 14:5,10,15 22:8 22:12 25:11,22 26:19 27:5,18 27:20 29:8 31:6 32:20 33:16,18 34:3,15,20 38:22 43:12 47:22,24 54:19 58:1 59:23 61:11 pursleys 25:14 26:15 30:2,12 31:4 34:1 50:17 54:11,19 63:19 pursuant 4:4 50:4 put 6:6 16:9 63:13 putting 40:7	<hr/> Q quash 6:17 question 7:1,18 9:10,12,21 10:6 19:9 questioning 7:7 49:10,11 63:19 63:20 questions 5:17,23 9:5,6,8 10:12 13:17 35:12 40:16,22 50:17 50:18 52:5 59:1 59:3 60:19,22 60:23,24 63:6 63:12
<hr/> P p 2:1,1,5,10,11,14 4:1 49:16 50:19 50:23 page 3:2 15:9,11 32:7,10 33:12 pages 15:17 paid 31:24 paper 32:23 paragraph 33:13 pardon 40:5 47:23 58:19 park 1:20 2:14 part 7:6 participate 49:17 participating 5:13 21:21,22 parties 4:5,9 parts 6:21 patch 8:6 patrick 1:3 2:24 5:5,10 8:15 13:18 21:20 22:5,6,8,12 25:11,14,22 26:15,19 27:5 27:18,20 28:9 29:8 32:20 33:16,18 34:15 34:20 38:22 52:22 59:23 61:11 pecker 32:12 penitentiary 28:12 29:20				
<hr/> R r 2:1 4:1,20 40:19 race 53:7 randolph 2:22 reach 27:24 56:18 reached 28:2 read 13:14 17:22 32:22 33:6 reading 33:11 ready 56:15 real 57:16,19 really 29:11 45:15 reappear 7:16 50:2 reason 10:5,9,15 24:13 43:22 48:9 recall 14:8,13 19:16 21:3 24:11 27:10,18 34:4 37:23 44:20 52:10,17 53:4,6,7,12,23 54:9 55:4,9,11 55:19 57:1,8,13 59:8,16,21 receive 31:15 32:2 54:1 received 13:13 31:7 34:2 54:10 recognize 15:10 60:3,8,13 61:13 61:19 62:1,6,14				

62:20 recollection 17:1 19:1 41:5,24 53:16 60:10 record 4:2 6:7 8:10 9:12 34:22 63:14 65:6 reffett 1:12 2:19 4:22 40:21 41:11,12,15 reflect 4:2 regard 41:2 regarding 26:15 26:18 56:4 relating 25:7 relation 57:14 relative 65:6 relaxed 48:10 release 13:23 14:1 relevant 6:15 remain 16:19 remember 13:21 13:23 17:7,11 17:13,19,21 18:21 23:6,11 23:12,14 24:2,3 24:6,7,16 28:7 28:17,18,22 29:2,3,5 30:10 30:16 31:12,13 31:14 37:11 38:5,7 51:8 55:10,10 56:10 56:20,23 reminder 63:16 repeat 10:7 rephrase 10:10 reported 1:21 reporter 1:22 3:20 7:4,11,12 65:1,2,10 represent 4:11,17 4:21,23 5:2,5,9 6:12 8:13 35:15 35:18 36:2,22 40:19 47:10 55:1 59:3 61:1 representative 1:11 represented 4:9	52:22 representing 28:9 54:11,18 57:24 request 49:14 requiring 51:9 respect 5:20 14:9 16:9,23 31:8 response 6:1 8:19 43:2 44:9 58:13 restrain 19:12 restrained 18:24 result 6:19 resumption 51:7 retired 8:13 61:1 61:6 62:14 retiral 30:2,13 return 7:20 reviewed 31:7 rfd 14:21 ride 22:14 44:2 right 5:6 7:9 8:24 9:23 10:4 11:9 12:1 13:13 29:8 29:9 30:20,21 37:15,19,20 44:24 45:4 49:2 50:5,14 51:4,10 51:15,19,22 52:23 53:3,18 55:11,13 56:13 56:16 57:1,13 63:16,24 righthand 15:10 robberies 21:23 robbery 25:10,21 26:19 27:4 robbing 22:14 robert 2:17 rockford 1:6,10 1:13,21 2:7,8,8 2:11,14,18 4:17 5:2 8:14,16 11:7 11:16,24 14:3 14:11,14 15:21 16:12,21 17:9 19:11,18 20:9 20:13 24:13 36:15 46:3,7 47:9,10 48:7 61:1,6,16 62:14	62:24 65:5 ron 1:7,18 2:15 4:13 61:13,17 room 4:6 9:7,14 17:6,11 63:23 64:2 rosa 2:4 roshna 2:2 5:4 6:11 8:5 rules 9:4 <hr/> S <hr/> s 2:1 4:1 safety 19:18 38:19 39:1 sam 1:8,19 2:15 4:14 62:6,9 saw 27:17 saying 9:14 29:22 54:18 scared 21:18,19 22:3,4,6 23:10 47:18 scheduled 7:7 schmidt 1:8,19 2:16 4:15 49:8 62:12,18 school 12:18,20 12:24 46:19 scott 1:9 2:12 4:19 15:21 17:2 17:7,15 18:8 19:23 24:12 25:6 26:13 36:23,23 37:4 37:23 39:20,22 39:24 40:2 second 7:6 33:13 secondly 9:16 security 47:19 see 32:13,16 64:1 seeing 63:22 sentence 32:10 sentences 32:19 33:9,15 separated 44:24 september 28:19 52:7 serve 7:5 30:9 served 29:16,19	34:22,23 49:14 50:20 57:19 58:3 seven 4:12 8:13 61:1 shorthand 1:22 3:20 65:1,2,10 shot 32:23 33:6 shoulders 9:18 show 51:6 shrugs 9:17 sic 31:6 side 32:10 sign 15:17 18:14 signature 15:10 15:13 signatures 15:8 similar 60:23 simms 11:14 46:23 sir 11:3 13:15 15:5,13 38:11 51:16 sister 45:20 sitting 7:9 slim 53:12 somebody 31:23 38:8 45:18 soon 29:21 sorry 20:19 24:6 38:4 58:21 59:10,13 63:9 sound 30:20 sounds 30:21 50:15 source 47:21 speak 27:24 44:2 speakerphone 46:10 speaking 63:10 special 1:10 54:3 specific 37:7 speculation 44:15 spell 12:8,10 45:23 46:9 spoke 37:14 41:20 55:19 spoken 24:11,16 25:3 27:20 34:13,19	stalter 2:18 start 5:23 21:21 21:22 started 5:17 9:4 starts 32:11 state 1:15,23 2:7 2:10 4:24 28:12 30:2 59:4,24 65:3 stated 6:10 statement 14:13 14:21 15:18,20 15:24 16:3,6,10 16:12,23 17:4 17:12,21 18:8 18:13,14,22 19:22 21:2,10 23:21 24:1 26:8 26:10 27:3 30:16 32:8,22 37:22 38:10,10 39:20 40:3,7,13 42:22 44:17 45:13 states 1:1 29:15 station 38:8,9 39:17,19 42:3 42:21 44:3,7 stephen 1:9 2:12 steve 4:19 36:16 36:17 stoppers 21:4,5,8 21:16 22:17 23:3,18,23 24:8 31:9,16,20,20 31:23 36:19 37:2,6,10 47:18 59:9,22 stores 22:15 street 2:2,5,8,10 2:22 14:1,2 strictly 37:18 striupaitis 1:14 2:23 59:5 60:8 stuff 22:15 subpoena 4:4 6:23 7:2,5,11,16 7:21 29:16,23 30:9,11 34:23 49:15 50:4,20
--	--	---	---	--

50:21 51:8 57:20 58:4 64:1 subsequent 54:12 suggest 40:12 43:12 supposed 29:23 sure 6:9 9:18 10:8 51:6 52:23 57:22 58:17 switzer 2:17 sworn 10:22 65:5 sylvia 12:15,15 sylvias 12:4,12,13	testified 10:23 29:6 30:24 34:1 48:6 testify 10:16 30:12,17 65:5 testimony 6:16 31:3 65:6 text 34:7 thank 7:14 8:7 47:1 51:15,18 51:21 59:17,19 63:3 64:4 thanks 51:23,24 64:6 thats 5:15 8:1 20:15 24:22,24 32:19 37:14,22 40:23 42:4 63:3 63:20 theres 63:13 thing 4:8 5:17 6:7 40:10 41:11 56:3 things 40:12 57:23 think 13:24,24 17:19 23:6 24:22,23 29:2,2 29:6,23 30:19 31:13 57:3,10 63:11,14 third 2:3 thought 29:11 43:14 threaten 16:22 39:22 43:4 threatened 44:11 three 15:17 40:19 59:3 threepage 15:5 threw 57:10 time 7:4,18 14:15 16:21 20:7 26:7 27:10,17,21 28:15 34:19 35:3 37:13 41:7 41:21 42:12 44:6 45:12 48:1 50:24 54:10,13 54:14,24 55:15	59:8 60:1 61:17 63:1 64:5 times 33:6 37:9 tingstad 2:4 5:8,9 today 4:6,9 5:17 6:14,21 7:3 10:5 10:12,16 16:19 35:8 50:17,21 63:15,18 64:7 today's 34:24 told 7:23 20:20,21 21:20 28:9 29:7 35:7 39:16 54:3 54:4,20 55:1,2 top 45:4 touch 57:2 trade 13:7 training 13:5 transcribed 1:22 transfer 58:12 treated 20:3,8 trial 27:19 30:10 30:18,19 31:4 34:1 tried 28:2 55:4 true 65:6 truth 16:15,17,19 18:9 20:14,20 20:21 31:3 35:5 35:7 65:5,6 truthful 32:3 43:22 truthfully 10:16 try 34:18 55:6 trying 23:11 turn 31:23 49:13 twentyseven 45:10 twentysome 27:19 twice 37:12 two 6:21 33:6 52:12,23 62:11 twothirds 32:9 typing 17:16	understand 7:23 8:17 9:19 10:2,7 10:8,13,18 17:5 51:12 understanding 5:12 understood 10:12 30:24 unidentified 1:13 1:15 united 1:1 unpleasant 48:17 unprofessionally 20:9	32:10 34:3 39:22 40:12 43:5 wed 9:19 welcome 47:2 welding 13:8 welty 1:14 2:23 59:6 60:13 went 12:18,20,22 17:3 21:9 26:10 29:19 37:16 39:19 40:3,13 58:13,16 west 2:10,21 weve 63:12 whats 44:21 45:18 45:21 46:16 49:3 51:1 white 53:7,9,10 wife 19:17,23 20:7 44:5 wifes 44:21 williams 1:9 2:12 4:19 36:7,8,10 williamsccart... 2:10 4:17 willingness 49:24 windham 1:6,18 3:3,12 4:3 5:3 5:16 6:10 7:15 7:22 8:11 9:1 10:16,21 11:1,2 12:18 13:17 14:19,23 15:2,3 15:17 16:4,6,14 16:15,22 18:21 19:16 20:12 21:3,17 23:13 24:9 26:9 27:10 27:17 32:8 33:15,24 35:3,8 35:13 40:18 44:22 45:17 47:4 49:10,11 49:15 50:6,10 51:5,13 52:4 59:2 60:20 64:2 65:3 windhams 63:15 winnebago 29:15
T			V	
take 9:17 15:4 42:3 49:24 taken 1:18 4:3 65:3 talk 23:4,9 34:18 41:17 42:24 54:20,21 55:5 56:14 59:14 64:7 talked 23:12 24:14,20 28:23 34:24 35:24 37:3 48:22 talking 14:8 38:22 43:9 55:14,23,24 59:22 tatianna 45:22,24 tatiannas 46:16 teleconference 2:3,6,24 52:1 telephone 5:13 37:18 41:20 42:1,16,24 43:3 43:18 45:5 46:5 46:16 telephonic 49:19 tell 10:7 12:17 20:14,20,21 31:3 35:4,4 40:6 43:13,17 54:23 56:16 telling 24:21 tendered 6:15 7:11			van 2:18 verbally 9:20 visit 53:24 54:3,4 54:4 55:11 56:10 57:23 58:4,6 visited 53:22 visiting 11:9,11 11:15 visitors 52:24 54:1,10 55:15 55:16 vs 1:5	
			W	
			waddell 2:4 5:9 wait 9:10,11 walk 53:23 56:11 56:12 walked 32:24 wallet 33:2,4 want 10:7,8,9 13:17 21:1,24 28:9,18 29:7 30:15 41:17 42:24 51:9 52:5 54:20,21 55:3 56:14,17 57:22 61:2 wanted 45:17 49:17,24 wasnt 32:3 48:10 way 9:12 16:22 19:12 22:16	
		U		
		uhhuh 5:24 8:18 9:15 10:1 43:2 44:9		

58:20	young 45:15,16	1994 30:19 31:1,4	7	
witness 3:2 5:6,11	53:15	34:2,20	7735628909 46:17	
5:24 7:24 8:18	younger 52:19	1st 57:17	8	
8:21,23 9:2,15	53:17	2	8 21:4,17 22:18	
9:23 10:3,14,17	youre 7:20 10:19	2001 13:4,6	8157238756 45:8	
10:20 14:20	45:19 47:2	2002 13:12	9	
15:18,20 16:10	50:15 63:24	2004 13:12	92 13:24,24	
16:23 17:4,12	youve 48:6	2018 28:20 29:14		
19:5 22:9 40:24	Z	2019 1:21 30:13		
47:2,5 50:1,7,12	0	50:2,19,22 51:7		
51:11,14 64:3	00 8:2	64:9 65:4,12		
65:5,7	1	219 2:11		
witnesss 27:13	1	24 64:8		
word 46:7	1	247 14:22 33:12		
words 16:9	1 3:12 8:3,4 14:20	249 14:22		
work 13:23 14:1	14:23 15:3	28 45:10		
46:18 59:4	16:14 31:13	29th 65:12		
worked 12:2,11	33:12 37:22	3		
29:3	49:16 50:19,23	3 1:4		
working 11:20,24	51:7 58:9,16	30 8:3,4 49:16		
12:3	10 1:21 3:3 8:2	50:19,23 51:7		
wrap 60:22	65:4	311 2:2		
write 13:15	100 1:20 2:14,21	31571 11:6		
writing 17:19	11 64:8	35 3:3		
written 14:13	12 15:15,18 16:1,6	4		
21:2,10 23:20	16:10,13,17	41 3:4		
24:1 26:8,10	18:22,24 19:11	425 2:7		
27:3 30:16 32:8	20:12 26:9,11	47 3:4		
37:22 40:7	27:2	48104 2:5		
X	120 2:10	5		
x 3:1	126 2:5	5 7:8 8:1 49:16		
Y	133 6:17	50:2,19,22 51:7		
yeah 12:16 24:10	1389 2:14	63:23 64:2		
24:16 28:16,21	13th 2:22	500 31:13		
29:21 32:14,18	14 3:12	59 3:5		
41:19 42:20	15 55:12,13 64:9	6		
45:16 46:4 55:6	15th 1:21 65:4	60601 2:22		
55:20,22 56:1	17 1:21 65:4	60607 2:3		
56:19 57:12	18cv50040 1:4	61 3:5		
58:5	1993 14:9,9 15:15	61104 2:8		
year 7:8 13:23	15:18 16:1,7,10	611050219 2:11		
28:8,20 52:7	16:13,17 18:22	611051389 2:14		
63:23	19:1,11 20:12	61108 2:18		
years 27:19	21:4,17 22:13	65 3:20		
yesterday 5:20	22:18 26:9,11	6833 2:18		
6:20 49:12,19	27:2 30:15			
youd 7:10	31:10 36:20			
youll 50:23	37:2,9 48:8 59:8			
	59:21 61:10			

WITNESS STATEMENTDate: 6-12-93Case No: 93-037212Start Time: 1847

I, Marvin A. Windham, DOB: 3-15-71 now living at
1224 N. Rockton #2 Phone # none have been advised
by Officers B. Scott and _____ that
they are police officers representing the City of Rockford, Illinois.

I have known Patrick Pursley since December of 1991. We met in prison, at Joliet. We both went to the work release center on Court St. after we got out. While we were still in the work release center he told me that if I knew of anyone selling guns to let him know. I never did know of anyone selling any guns so I did not help him.

Patrick got out of the work release center before I did so I did not see him for about five months. Then one day I was driving down Ashland and Woodlawn and I saw Patrick changing a flat tire so I stopped and talked to him. I got out of the work release center in Dec. of 1992. We started kicking it together the first part of 1993. The first night I went over to his house he was bragging about doing stick ups. He said he had robbed either a mexican or a white guy. Weeks went past and he was trying to get me to go along with him to do jobs. He told me that he went to rob a guy and he did not have any money so he took his car. I think he said that happened in the area of Rockton and Custer.

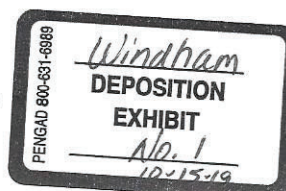
The first part of April my wife and I and kids had gone to Chicago. We came back about the fifth of April I went over to Patrick's house. He was on the phone talking to some lady at the unemployment office. They messed up or something and he was not getting his unemployment. He got mad at her and threatened her, He was tired of these white peckers he was going to start killing them. He cussed at her and then he hung up. He said he was tired of this shit. He said that he had just killed a pecker the other day and he was going to kill a lot more of them. He pulled out a newspaper clip of the murder of the fire man. ~~XXXXXXXX~~ I read the clip and I asked him why he shot him. He said the paper was lying. He said he walked up to him and said this aint no joke, give me the money. He said the guy pulled out his wallet and the lady pulled out her purse. He said that they were not going to give him there purse or their wallet they were just going to give him the money. He said that is when he shot him two times. He said there wasn't much money. He said the part in the paper that was wrong is where one of the bullets was meant for her and he did not leave any money on the dash board like the paper said. I asked him if Sam was with him and he said that she was waiting around. Before signing, I have read or had read to me this page to make certain that it is my statement and that it is the truth.

Witness Bruce D. Scott

Witness _____

Signed Marvin A. WindhamDate 6-12-93Signing time this page 7:54 PMPage 1 of 3 pages

ORIGINAL



RFD Defense 000247

Case No: 93-037212CONTINUATION OF STATEMENT OF Marvin A. Windham

the corner for him. The only car they had at that time was a beige Chevey Celebrity. He was bragging how it was a sweet and clean get away. He showed me the gun that he used and it was a 9mm sixteen shot ~~wx~~ black with brown handles. The same day he had his girl friend take the gun to get it adjusted. He said that if he got caught the police wouldn't be able to hook the murder on him by doing something to the gun.

A couple of weeks later he came over to my house. We were watching T.V. and a guy was on the news that he knew called Bingo. He said he use to do stick ups with Bingo. That's when he asked me what was up, was I going out. He had on a black hoody, he had a skull cap that he had made two holes in it on, he had the same 9mm. he had a police scanner with head phones on. I asked him what he was going to do and he said that he was fixing to go get him some money. I told him that I was not going and he said all right I'm out of here. I watched him out side. He took the license plates off the chevy and put a sticker in the back, like he just bought the car, and he took off. I went over to his house the next day about news time. We were watching the news and that is when the Burger King robbery came up. The description was wrong. They said 140lbs. and he jumped up and down saying he got a clear get away, because he only weighs about a 100lbs. They also said that he was dark skinned and he is light skinned. He had his money in the head board of his bed. He showed it to me and told me that it was about \$1,500. That is how he use to try and lure me into going with him. He was always talking about doing a bank, that was his dream.

At about a couple of weeks later Sam and Patrick came by my house. I asked him what he was doing. He said he was looking for a car so he could go rob a bank. The next day I went over to his house. I saw him packing his black bag. He put his pistol in the bag, an extra clip, purple mask, police scanner, black pants and a black hoody. he had a purple hat that said Karl Canie, it is a name brand for jeans.

The next day I read in the paper about the bank robbery and from the description I knew it was Patrick. I went over to Patrick's and they were acting like they did not do anything. That is when he let it out. He said that your going to have to be down with this, meaning start doing stick ups with him, because I knew too much. He said I was going to have to stop coming around because I did not want to do nothing. He started saying yeh he did it. He said he stole a car, he said that was an oldsmobile. He said sam met him around the corner and drove the stolen car to the bank. He went in and stuck up the bank jumped back in the

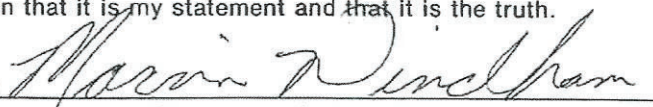
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Signing time this page

Page 2 of 3 pages

ORIGINAL

RFD Defense 000248

Case No: 93-037212CONTINUATION OF STATEMENT OF Marvin A. Windham

stolen car and drove around the corner and met Sam. He said that he threw some money on the pavement by the oldsmobile to throw the police off track. He said he rode on the floor of the car all the way back. He said the kids were in the car too so the police would not stop them. He said that he got sixteen thousand dollars.

After that he bought another car a black Honda Civic. He said that he did not buy the car in Rockford because he was scared to spend money around here. He had Sam buy him another 9mm. and he said that he was not going to do nothing else for awhile. That is also when he made some threats to me that before he goes back to the penitentiary he would know if it was me or Sam and he would kill us before he goes back.

He did tell me that he would get rid of his boots and skull caps after he did stick ups. The only thing that he kept would have been his black hoody. He would even get rid of his boots and buy some more. He always wore black combat boots.

After he threatened me that is when I stopped hanging around with him.

End of Statement

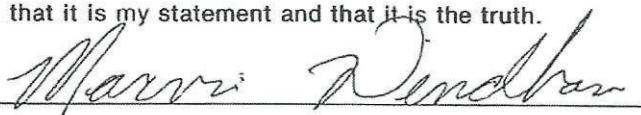
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7:55 PMPage 3 of 3 pages

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RFD Defense 000249